

City of Bullard, Texas, Code of Ordinance

Chapter 10

PLANNING AND ZONING

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Chapter 10 - PLANNING AND ZONING

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Chapter 10 - PLANNING AND ZONING

ARTICLE I. ANNEXATION

Section 10-1. Boundary extension, annexation; accomplished by ordinance.

- a. The City Council may extend the City limits and annex additional territory lying adjacent to the City by passing an ordinance setting forth the metes and bounds of the area sought to be annexed, declaring the territory within the defined boundaries to be a part of the City, and ordering it subject to all of the rules and regulations applicable to the City in accordance with state law. **(Note)***
- b. An applicant(s) seeking annexation pursuant to Section 43.028, Texas Local Government Code, shall file a petition with the City Manager containing the following information and conforming to the following requirements:
 1. A metes and bounds description of the tract to be annexed.
 2. A list of all qualified voters who reside on the tract.
 3. The petition must be signed by each owner.
 4. Each owner's signature must be acknowledged in the manner required for deeds.
 5. The application shall be accompanied with a plat of the tract to be annexed, drawn to scale, which shall:
 - (a) Identify the ownership of each parcel of land;
 - (b) Show any public ways within or bounding the tract;
 - (c) Show any easement within or bordering the tract;
 - (d) Show the existing City limits boundaries.
 6. Information required for original zoning.
 7. The application shall be accompanied with a filing fee of *two hundred fifty dollars (\$250.00)*.

Section 10-2. Annexation goals and policies.

- a. Texas cities derive their annexation authority from state law. **(Note)***

As a home rule city, Bullard has the right to annex voluntarily or involuntarily any area within its extraterritorial jurisdiction (ETJ) or any City-owned property, subject to State law requirements. The ETJ includes the unincorporated area within one half (1/2) miles of the City limits, excluding any area that is legally existing in the ETJ of another city. Within its ETJ, the City also has the right to approve the creation of other political jurisdictions, and enforce its subdivisions. **(Note)**

Annexation is one of the most important tools available to cities in Texas to determine their future. In recognition of that fact and based upon the authority outlined above, the City adopts the following annexation goals and policies. Because the parameters bearing on specific annexations and boundary adjustments vary so considerably, these goals and policies are intended as flexible guidelines to be followed rather than as absolute mandates. Also, the intent of all the policies together should be considered rather than one policy individually.

- b. **Goal I.** Preserve the City's range of annexation options. The authority granted to Texas home rule cities to fix and extend their boundaries and to exchange areas with other municipalities is very broad. The City should exercise that authority when appropriate and vigorously oppose any effort to reduce it.

Policies:

1. The City may, at its discretion, annex any lands within its exclusive ETJ in accordance with state laws and the City Charter.
2. The City should consider annexation for the purpose of enforcing health and safety regulations and improving the quality of life.
3. The City should vigorously pursue violations of its ETJ to the fullest extent allowable by law.

- c. **Goal II.** Promote orderly growth and provision of municipal services. Within unincorporated areas in Texas, there are very limited development controls. Annexation of areas facing development pressures can ensure proper land use relationships and high standards of construction through Zoning, Subdivision, and Building codes, thereby assuring adequate health and safety standards and averting costly future problems for the City.

Policies:

4. The City should consider annexing areas facing the prospect of development as a means of effectively controlling the quality of growth through the extension of the City's zoning and other regulations.
5. The City should annex City-owned property when appropriate as soon as possible after acquisition.
6. Prospective annexation areas should be evaluated to determine their impact on existing services and City budget.

- d. **Goal III.** Enhance the City's fiscal position. As the major city and cultural center of the region, the City provides and supports many services which are available to residents of unincorporated areas, as well as to those within the City limits. Annexation provides a means for the City to recoup partially the costs of these services.

Annexation also provides a means for the City to avoid a dwindling tax base. Unlike many states, Texas cities have considerable authority to annex adjacent unincorporated areas. There is a very good reason for this. In parts of the nation, where cities are unable to annex, there is a tendency for those who can afford to do so to escape City taxes and problems in favor of the suburbs. The result is that such cities are abandoned to their poorer citizens, with their needs growing while their resources diminish. While inner City housing ages and depreciates in value, new housing occurs primarily on the City fringe, primarily outside the City limits. Commercial and industrial centers then follow the population trend away from the center City. Without annexation, the City could be faced with decreasing rather than increasing resources.

Policies:

7. The City should consider annexation to protect the City's fiscal viability by extending its tax base for ad valorem taxes, including both real and personal property, and sales taxes and to maintain the City's bond rating.

8. The City should consider annexing nonresidential areas as a means of maximizing the City's investment return.

9. Areas which are in need of municipal services, but would create a fiscal liability to the City, should be annexed in conjunction with other areas which would generate offsetting revenue surpluses.

10. Cost-revenue analyses for prospective annexation areas should be estimated for at least ten (10) years after annexation. Identified capital costs should include estimated debt service as determined by the Finance Department.

11. Annexation costs should be considered budgetary mandates.

12. Areas to be annexed are eligible to receive City water and sewer services as provided in the Bullard Code.

- e. **Goal IV:** Preserve the integrity of the City and its ETJ. By retaining control over its planning area, the City can plan for the most efficient design and use of its infrastructure, particularly its utilities and major thoroughfares. Annexation can also prevent or inhibit the further fragmentation of government, thereby reducing the total cost of government for citizens in the region decreasing the difficulties of resolving multi-jurisdictional problems.

Policies:

13. The City should consider annexation to extend its ETJ to provide development controls to areas it deems are in need of such controls.

14. The City should oppose the creation of additional cities, special purpose districts, and water or wastewater utilities within its ETJ unless the City determines it is not responsible and cost effective to provide the necessary services. The City may annex areas to preclude the creation of other political jurisdictions.

15. The City should consider the following criteria prior to releasing any portion of its corporate limits or ETJ to another city:

(a) There should be an exchange of areas of equivalent value with the other jurisdiction;

(b) The other city should have adequate land use controls (as determined by the City) to protect the subject area and provide assurances that these controls will remain in effect;

(c) The existing City limit or ETJ is not a logical planning boundary;

(d) Potentially significant negative fiscal impacts on the City's budget will not result if the area is released; and

(e) The area does not contain environmental resources in need of City protection.

- f. **Goal V.** Maintain a systematic annexation process. The process by which unincorporated areas are selected for annexation should be clearly understood and designed to predict when a particular area will be

annexed with some degree of certainty. Such a process would assist in providing timely extensions of public infrastructure systems and in estimating City revenues. Property owners would also benefit by knowing when their properties will receive municipal services and when taxes will be assessed.

Policies:

16. Annexation and disannexation petitions should be considered on an individual basis and referred to the City Attorney for a determination of sufficiency as to form and legality.

17. In accordance with State law, the City shall prepare an annexation plan identifying prospective annexation areas for the next three years. The plan shall be amended as needed.

Section 10-3. City limits in 1984.

Section 41.003 of the Texas Local Government Code provides that an irrebuttable presumption attaches to the inclusion within the city of any area that has been functionally a part of the city for 20 years. The records of the City indicate that the area designated in the Exhibit "A" which is attached to the ordinance adopting this section has been a part of the City for at least the preceding 20 years and the City has provided municipal services, including police protection, to the area and has treated the area as part of the City during the preceding 20 years, and since there has not been a final judicial determination during the preceding 20 years that the area is outside the boundaries of the City; and there is no pending lawsuit that challenges the inclusion of the area as part of the City; therefore the City Council finds that the requirements of State law for inclusion of the area have been met and the inclusion of the area designated in Exhibit A is not contestable.

Sections 10-410-9. Reserved.

ARTICLE II. HISTORICAL PRESERVATION

Section 10-10 - Section 10-19. Reserved

Section 10-20. Historic landmarks.

- a. The City Council finds that the recognition and preservation of historic landmarks is in the public interest and serves to promote the welfare of the community. The purpose of sections 10-20 through 10-25 is to preserve the historic structures of the community through a voluntary program of owner participation, and to carry out the City's responsibilities as a Certified Local Government.
- b. A "historic landmark" is defined as any site or area of historic or cultural importance or significance as designated by the City Council. Historic landmarks shall include historic structures, sites, districts or areas:
 1. Within which the buildings, structures, appurtenances and places exemplify the cultural, political, economic or social history of the nation, state, region or community.
 2. That are identified with the lives of historic persons or with important historical events.
 3. That embody the distinguishing characteristics of an architectural type or specimen as to color, proportion, form, details, materials and craftsmanship.

Section 10-21. Bullard Historical Preservation Board-Created; composition; appointment of members; terms

a. There is hereby created in and for the City a board to be known as the "Bullard Historical Preservation Board," which shall be composed of nine (9) members who shall serve without compensation and who shall be appointed by the City Council. Members shall serve for terms as set forth in Section 2-1. Board membership shall include 1) an architect, planner, or design professional; 2) a historian, archeologist, or related profession; 3) a real estate professional; 4) an attorney; 5) an owner of historic landmark or property in historic district; and 6) the Executive Director of Historic Bullard, Inc. or successor organization, or designee. Such membership requirements may also be met if a Board member falls into more than one of the listed classifications. All members shall have a demonstrated interest, competence or knowledge in historic preservation within the City. If the City Council does not appoint an architect to the Board pursuant to this subsection, the Board is hereby authorized to appoint an architect as an unpaid, Ex Officio, non-voting member of the Board. Said appointee shall serve in an advisory capacity only to the Board.

b. The purposes of the Historical Preservation Board are:

1. To work with the federal and state governments, the City Manager, the historical society and other boards or organizations to help coordinate restoration or preservation projects.
2. To educate the community about its rich historical legacy and to encourage historical preservation as inspiration for future generations.
3. To study and research the necessity for historical districts for the City.
4. To conduct comprehensive studies into the field of historical preservation in this community, including programs now being offered, what still needs to be done, and cooperative efforts among various groups which could be effected toward a common goal.

5. To provide for the community an overall view of historical preservation and provide data for individuals or organizations interested in historical preservation.

6. To recommend to the City Council historic landmarks which should be included in the Bullard Historic Landmark Register.

7. To thoroughly familiarize itself with buildings, structures, sites, districts, areas, places and lands within the City which may be eligible for designation as historical landmarks.

8. To establish criteria and make recommendations to the City Council to be used in determining whether certain buildings, districts, and areas should be designated as historical landmarks.

9. To establish guidelines and review requests for certificates of appropriateness and certificates of demolition for buildings, structures and sites designated as historical landmarks.

10. To formulate plans and programs for public and private action for encouraging and promoting the preservation of historical landmarks.

11. To suggest sources of funds for preservation and restoration activities and acquisitions, including federal, state, local, private and foundation sources.

12. To provide information and counseling to owners of historical landmarks.

13. To prepare annual reports to the Texas Historical Commission and City Council that summarize Board activity during the previous year.

14. To prepare design guidelines for review of historical landmarks and districts.

15. To propose to the City Council tax abatement programs for historical landmarks and districts.

c. The powers and duties of the board are:

1. Act in an advisory capacity and make recommendations to the City Manager, the Planning and Zoning Commission and the City Council concerning establishment of any location, structure, building or area as an official historical site and shall make future recommendations regarding preservation and restoration of such areas or buildings, subsequent to their establishment as official historical sites or districts.

2. Conduct hearings and research for the purpose of determining the feasibility of recommending to the City Manager, the Planning and Zoning Commission and City Council locations, sites and structures to preserve and restore as official historic sites or districts.

3. The authority of the Board shall be limited to making recommendations, and it shall in no way have authority to designate or establish areas, buildings or structures as historical sites or districts.

The City Manager shall designate in writing a local preservation officer who shall serve as a liaison for the City and Board to the Texas Historical Commission, and who shall assist the Board in formulating plans and programs for historical preservation.

Section 10-22. Designation of historic landmarks.

a. There shall be maintained a document designated as the "Bullard Historic Landmark Register."

b. A structure, site or area may be nominated by the owner or by any interested third party, but may not be placed on the Bullard historic landmark register without the express consent of the property owner.

c. An application form shall be required as prescribed by the Board. The Board shall conduct public hearings to consider applications for inclusion of sites, structures or areas on the Bullard historic landmark register and shall make a recommendation to the City Council. The City Council may designate historic structures, sites or areas for inclusion on the register, after considering the report and recommendation of the Board.

d. In considering a structure or place for designation in the Bullard historic landmark register, the Board and City Council shall consider the following:

1. Character, interest or value as part of the development, heritage or cultural characteristics of the City, State or United States.

2. Distinguishing characteristics of an architectural type or specimen.

3. Elements of architectural design, detail, materials or craftsmanship, which represent a significant architectural innovation.

4. Relationship to other distinctive buildings, sites, districts or areas which are eligible for preservation according to a plan based on architectural, historic or cultural motif.

5. Portrayal of the environment of a group of people in an area of history characterized by a distinctive architectural style.

on of the cultural, economic, social, ethnic or historical heritage of the City, State or United States.

7. Location as the site of a significant historic event.

8. Identification with a person(s) who significantly contributed to the culture and development of the City, State or United States.

9. Value as an aspect of community sentiment or public pride.

10. Identification as the work of a designer, architect or builder whose work has influenced City growth or development.

11. Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community, or the City.

12. Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.

13. Demonstrated ability of the property owner to maintain the structure, site or area in a sanitary, aesthetic or lawful manner.

e. The City Manager shall cause the designation of any structure, site, area, or district on the Bullard historic landmark register to be recorded in the Smith/Cherokee County deed records.

Section 10-23. Alteration or demolition of historic landmarks; certificate of appropriateness required.

a. No person or entity may construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of a building or structure or relocate any building or structure designated on the Bullard historic landmark register unless a certificate of appropriateness has been issued by the City Council. The term "exterior architectural feature" shall include, but not be limited to, the kind, color and basic texture of all exterior building materials and such features as windows, doors, lights, signs and other exterior fixtures.

b. Application procedure: Applications for certificates of appropriateness shall be made on a specified form to the Board and shall include two (2) copies of all detailed plans, elevations, perspectives, specifications or other suitable plans for the proposed work.

c. Hearing: Within forty-five (45) days of the receipt of a completed application, the Board shall hold a hearing.

d. Review: Upon review of the application, the Board shall determine whether the proposed work will adversely affect any exterior architectural feature or adversely affect the historical character of the building, structure or site, whether any proposed rehabilitation of an historic building, structure or site is consistent with the guidelines in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and whether such work is appropriate and consistent with the spirit and intent of this chapter. The Board shall then forward its recommendations to the City Council, which shall have final authority to grant a certificate of appropriateness. Following the City Council's decision, the City Manager shall forward to the property owner either a certificate of appropriateness, which shall include a copy of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, or notice that the City Council has made a determination that the proposed work would adversely affect the historic character of the site or structure and a recommendation of an alternative course of action which would preserve the historic character of the structure. If no action has been taken by the City Council within sixty (60) days of original receipt of the application, a certificate of appropriateness shall be deemed issued by the City Council.

e. Building permit to be issued: Upon completion of the City Council hearing and recommendation to the property owner or within sixty (60) days, whichever occurs first, a building permit shall be issued in accordance with the application of the property owner, provided that such application complies with the Building Code and other ordinances.

f. Temporary Emergency Repairs. If the Chief Building Official determines that a building or structure designated on the Bullard historic landmark register poses an immediate threat to persons or property, the Chief Building Official may order or conduct any temporary emergency repairs necessary to make the building or structure safe without the requirement of a certificate of appropriateness. The Chief Building Official shall send a written explanation of such temporary emergency repair order to the Board. However, once such temporary emergency repairs have been completed, no further work may be done on the building or structure unless a certificate of appropriateness is obtained pursuant to this section. It is unlawful to fail to comply with a temporary emergency repair order issued by the Chief Building Official.

Section 10-24. Property owners' rights; removal by City Council.

a. Any person or entity, that owns a majority interest in a historic building, structure or site as designated on the Bullard historic landmark register may have such property stricken from the register by notifying the Board in writing.

b. If, after a hearing, the Board determines that an owner or person with an interest in a historic building, structure or site designated on the Bullard historic landmark register has, through action or inaction, adversely affected the historic character of the property, the Board shall make a recommendation to the City Council. Following a hearing, the City Council may order such property removed from the register, and may also order the owner or person in interest to remove the register plaque from the property and return it to the Planning and Zoning Department within a specified time. It is unlawful to fail to comply with any City Council order requiring removal and return of the register plaque. Factors that the Board and City Council may consider include:

1. Significant alteration of architectural feature of building or structure;
2. Demolition of building or structure;
3. Allowing property to fall into state of disrepair;
4. Such other factors as the Board and City Council may deem appropriate.

Section 10-25. Tax abatement.

In accordance with state law, the City Council finds that all structures listed are historically significant and entitled to tax relief in order to encourage historic preservation. Fifty percent (50%) of the assessed value of any building, structure or site listed on the Bullard historic landmark register and the land necessary for access to and from the building, structure, or site, up to a maximum assessed value amount of \$ 2,000,000, shall be exempt from annual City ad valorem taxation, provided that such building, structure or site is listed on the register on the first day of January of the applicable tax year. As long as the property remains on the Bullard historic landmark register, has not changed ownership, and otherwise remains in compliance with all applicable ordinances, the owner shall not be required to re-apply for exemption on an annual basis.

Section 10-26. Tax abatements for historic landmarks.

a. The tax abatement provided for in this section is intended to encourage historic preservation within the City of Bullard. Any building or structure that has been designated as a historic landmark pursuant to the terms of this Article, and which is substantially rehabilitated as provided herein, may have abated one hundred percent (100%) of the amount of any increase in the assessed value for purposes of ad valorem taxes levied by the City of Bullard in excess of the assessed value of the property for a period of five (5) years following issuance of a Certificate of Appropriateness. Said tax abatement shall only apply to the increase in the assessed value of the property over the assessed base value of the property, regardless of the actual value of any permits and improvements. In order to be eligible for tax abatement, said renovations must be at a minimum cost of *thirty thousand dollars (\$30,000.00)* and must be completed within a period of two (2) years from the date of issuance of a Certificate of Appropriateness. The tax abatements would become applicable to the property in January of the first tax year following the date of issuance of a Certificate of Appropriateness. The tax abatements shall continue in effect during the established five-year period as long as the property remains on the Bullard historic landmark register. The total amount of said improvements subject to tax abatement per year for the five-year period on a single piece of property shall not exceed *two million dollars (\$2,000,000)*.

b. To be eligible for a property tax abatement under this section, a property must meet the following requirements:

1. The building or structure must meet the requirements for, and have previously been designated as, a historic landmark pursuant to section 10-22.
2. The structure or building upon which the renovation is to occur must be at least fifty (50) years old or older;
3. The tax abatement under this section is available for buildings or structures on both residential and commercial property.
4. Any renovations or improvements must conform to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, a copy of which is available in the City Manager's Office.

c. Application process. Applications for tax abatement under this section are voluntary. Any owner seeking a tax abatement under this section shall file an application for a Certificate of Appropriateness in conformance with section 10-23. Said application shall include a projection of the estimated construction time and predicted completion date of the historic repair or rehabilitation. The requirements of sections 10-23 and 10-24 shall govern the application, granting and removal, and maintenance process for the Certificate of Appropriateness.

However, the actual granting of the tax abatement under this section shall be subject to the discretion and approval of the City Council. After a public hearing, the City Council may by ordinance approve the abatement provided for in this section. If approved by City Council, the applicant for abatement shall cause a copy of the ordinance and application for exemption to the Smith/Cherokee County Appraisal District not later than January 1st of each subject tax year.

d. Time for completion; re-capture. If the improvements, renovation or restoration repair work on a particular piece of property are not completed within two (2) years from the date of issuance of the Certificate of Appropriateness, any and all tax abatements previously received on said property during the two-year period shall be revoked, and the City may re-capture all tax abatements that the property owner received during said two-year period. In addition to the re-capture, the property owner shall not be eligible for the tax abatement for the remaining three (3) years.

e. Eligible costs. Eligible costs shall include construction, reconstruction, alteration, change, restoration, removal or demolition of any exterior architectural feature of a building or structure on the Bullard historic landmark register. Materials and labor for repairing, replacing or adding any of the following shall be eligible, if expressly approved as part of the Certificate of Appropriateness:

1. Structural walls;
 2. Exterior doors;
 3. Windows;
 4. Exterior brick veneers or treatments;
 5. Roof and gutter where necessary for structural integrity;
 6. Facade items;
 7. Limited demolition, not more than fifteen percent (15%) of the original structure, and cleanup related to the eligible costs in this subsection;
 8. Exterior paint (consistent with those colors available during the time period that the structure was built);
 9. Foundations;
 10. Structural subfloors;
 11. Structural ceilings;
 12. Termite damage and treatment;
 13. Fixtures and decorative items attached to the main structure, or that contribute to the historic integrity of the property;
- contributes to the historic integrity of the property.

f. Ineligible costs. Ineligible costs shall include the following:

1. Overhead;
2. Taxes;
3. Supervisor payroll;
4. Repairs of construction equipment;
5. Tools;
6. Plumbing and electrical wiring;
7. Mechanical equipment; air conditioning systems;
8. Any other items not directly related to the exterior appearance or the structural integrity or viability of the structure, except that interior items for commercial properties shall be allowed.

g. Use in conjunction with other incentives. The tax abatement authorized by this section may be used in conjunction with other types of abatements or incentives, either existing and that may be developed in the future, unless otherwise prohibited by statute or ordinance.

h. Sunset review. Before the second anniversary of the date of adoption of this section, the City Manager shall review the tax abatement program established herein. The City Manager shall review the effects of, and any

benefits or problems associated with, this program. Following such review, the City Manager shall make a recommendation to the City Council regarding whether to continue, modify, or repeal this section.

Sections 10-27-10-29. Reserved.

ARTICLE III. DEVELOPMENT

DIVISION A. SUBDIVISION RULES

Section 10-30. Purpose

This Division sets out the procedure and standards for submitting plats, for subdividing property, for the layout and development of lots, land and subdivisions within the City limits and within Zone 2 of the extraterritorial jurisdiction, and to guide and assist developers in correct procedures to be followed and to furnish information of standards required.

This Division is also intended to promote the safe, orderly and healthful development of the City by controlling the location, width, design and type of streets, sidewalks, storm sewers, culverts, bridges, utilities and essential services required.

Section 10-31. Definitions.

Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practice. As used in this Division, the following definitions shall apply:

Addition - One lot, tract or parcel of land lying within the City limits or extraterritorial jurisdiction which is intended for the purpose of development.

Adequate Public Facilities - Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the City Council based upon specific levels of service.

Alley - A public or private service way which provides only a secondary means of public access to property abutting thereon and not intended for general traffic circulation.

Amended Plat - A revised plat correcting errors or making minor changes to the original recorded final plat.

Amenity - An improvement to be dedicated to the public or the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this ordinance.

Applicant - The owner of land proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

Average Density - The average number of dwelling units per acre.

Base Flood - The flood having a one percent chance of being equaled or exceeded in any given year. The base flood shall be determined by using a fully developed watershed and the City's Drainage Design Manual criteria for a 100 year storm.

Block - A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.

Bond - Any form of a surety bond in an amount and form satisfactory to the City.

Buffer Area - A strip of land, identified on a site plan or by zoning ordinance, established to separate physically and protect one type of land use from another land use that is incompatible. Normally, the area is landscaped and kept in open space.

Building - A combination of materials to form a construction that is safe and stable, and designed to be built for the support, enclosure, shelter or protection of persons, animals, cattle or property of any kind including, but not limited to, permanent or continuous occupancy for assembly, business, education, industrial, institutional, mercantile, residential or storage purposes. The term building shall be construed to include the term "structure", and as if followed by the words, "or portion thereof". When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building Official - The Chief Building Inspector or designee responsible for issuing building permits and charged with the administration and enforcement of the City construction codes.

Building Setback Line - A line, established by this Ordinance, parallel or approximately parallel to the front lot line at a specific distance therefrom, marking the minimum distance from the front lot line that a building may be erected, except or unless as specifically provided in this Ordinance.

Capital Improvements Program - The official proposed schedule of all future public projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project, as adopted by City Council.

City Engineer - The official with responsibility to review and release plans for construction projects other than water and sewer improvements, or designee.

Collector - Street which serves the internal traffic movement within an area of the City, such as a subdivision or commercial area, and connects this area with the arterial street system.

Comprehensive Plan - A plan for development of the City prepared and adopted by the Council, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

Commission - The Planning & Zoning Commission for the City of Bullard.

Concurrency - Requirement that development applications demonstrate that adequate public facilities be available at prescribed levels of service concurrent with the impact or occupancy of development units.

Construction Plan - The maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision or addition in accordance with the requirements of the Commission as a condition of the approval of the plat.

Contiguous - Lots are contiguous when at least one boundary line of one lot touches a boundary line(s) of another lot.

Conveyance Plat - An interim plat recording the subdivision of property or defining a remainder of property created by the approval of a final plat for a portion of property, where approval of final development plans is not sought.

Council - The Bullard City Council.

County - Cherokee/Smith County, Texas.

Cul-de-sac - A local street, one end of which is terminated and consists of an area for turning vehicles around.

Dedication Plat - A plat prepared for the purpose of dedicating land or easements for rights-of-way to the City.

Design Criteria - Standards that set forth specific improvement requirements.

Developer - The person, business, corporation or association responsible for the development of a subdivision, addition, or other properties. In most contexts the terms Developer and Property Owner are used interchangeably in these regulations.

Development - Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, paving, drainage or utilities, but not agricultural activities.

Development Exaction - Any dedication of land or easements for construction of or contribution toward construction of a public improvement required as a condition of plat approval by the City under these regulations.

Director - The City Engineer or designee.

Drainage Way - All land areas needed to allow passage of the Base Flood, including sufficient access above the Base Flood elevation along each side of and parallel to the natural or excavated channel.

ETJ - Extraterritorial jurisdiction.

Easement - A right-of-way or parcel of land, specified or set aside for a specific use; normally for access, utilities, and other public or private usage, given by the owner of land to another party, and kept free from buildings or structures.

Escrow - A deposit of cash with the City in accordance with City policies.

Exactions - Requirement of development to dedicate or pay for all or a portion of land costs of public facilities as a condition of development approval.

Final Plat - The map of a subdivision or addition to be recorded after approval by the Commission and any accompanying material and additional requirements as described in these regulations.

Flood Plain - An area of land subject to inundation by a 100-year frequency flood, as shown on the City flood plain map.

Floodway - The channel of a stream or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation.

Floodway easement: An easement within the flood plain as defined herein which includes a channel, plus any adjacent flood plain area that must be kept free of encroachment and obstruction in order that the one hundred year frequency flood may be conveyed without increasing the flood elevation at any point on the channel by more than one foot. For streams analyzed in detail in the Federal Flood Insurance Study, its floodways and subsequent letters of map amendment shall be the criteria.

Frontage - The distance along a property line which is also the right-of-way line of a dedicated street or approved private street.

Frontage Street - Any street to be constructed by the developer or any existing street where development shall take place on both sides.

Improvement Agreement - A contract entered into by the developer and the City by which the developer promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.

Industrial Park - A development of industrial sites, whether located inside or outside the City, which if developed within the City, would be required by the zoning ordinance to be located in an M-1 Light Industrial District, M-2 Heavy General Industrial District, or M-3 Heavy Industrial District.

Local Street - A street whose sole function is to provide access to abutting properties and to other streets from individual properties, and to provide right-of-way beneath it for sewer, water and storm drainage pipes.

Lot - A tract, plot or portion of a subdivision, addition or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession or for building development.

Lot, Corner - A lot or parcel of land abutting upon two or more streets at their intersection.

Lot Improvement - Any building, structure, place, work of art, or other object situated on a lot.

Lot of Record - A parcel of land having its existence, location, dimensions and ownership legally recorded or registered, by deed or plat, with the Smith County Clerk.

Metes and bounds - A description of real property by which property is not described by reference to Lot or Block, shown on a map, but is defined by starting at a known point and describing, in sequence, the lines forming the boundaries of the property.

Metropolitan Planning Organization for the City (MPO) - Organization responsible for the development of transportation planning, and the development of Transportation Plans, Transportation Improvement Programs, and the Unified Planning Work Program.

Major Plat - All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat requiring creation of any new street or extension of City facilities.

Minimum Finished Floor Elevation - That mean sea level elevation above which the lowest occupied floor slab, not including garages, of any building shall be built. This elevation shall exceed the maximum surface elevation of the 100 year flood for nearby creeks and channels at that point of reach of said water course by at least one foot.

Minor Plat - A subdivision resulting in four or fewer lots and not requiring the creation of any new street or extension of municipal facilities.

Municipal Facility - An improvement owned and maintained by the City.

Off-Site Improvement - Any public improvement located outside the physical boundaries of the subdivision or addition to be platted.

Parcel - A continuous quantity of land in the possession of, owned by, or recorded as the property of, the same person(s).

Pavement Width - The portion of a street available for vehicular traffic. Where curb exists, it is the distance between the face of curbs.

Perimeter Street - Any existing or planned street which abuts the subdivision or addition to be platted.

Plat - A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the Subdivision ordinance of the City and subject to approval by the Commission and filed in the plat records of Cherokee County.

Platting - The act of preparing for approval and processing, pursuant to these regulations, the plan or map for the subdivision or addition to be filed for record in the County where such subdivision or addition is located; includes development plat unless otherwise noted.

Preliminary Plat - The preliminary drawing(s), described in these regulations, indicating the proposed manner or layout of the subdivision or addition to be submitted to the Commission for approval.

Primary Arterial - A road intended to move traffic to and from major attractions such as shopping centers, colleges, major industrial employers, and similar traffic generators within the governmental unit.

Private Streets & Alleys - A private vehicular access way shared by and serving two or more lots, which is not dedicated to the public and is not publicly maintained. Private streets and alleys may be established only under the terms of this ordinance. The term private street shall be inclusive of alleys.

Property Owner - Any person(s), firm(s), corporation(s), or any other legal entity having legal title to or sufficient proprietary interest in the land comprising the subdivision or addition, or any representative or agent thereto, who has express written authority to act on behalf of such owner.

Public Facilities - Any buildings or facilities which are owned, leased, primarily used and/or primarily operated by the City including, but not limited to, Transportation Services, Utility Services, Transmission Lines, Metering Facilities, and Recreation Facilities/Services.

Public Improvement - Any drainage way, roadway, parkway, sidewalk, utility, pedestrian way, off-street parking area, lot improvement, open space, or other facility for which the City or other governmental entity will ultimately assume responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Public Way - An officially approved, privately maintained drive constructed to City street standards, open to unrestricted and irrevocable public access, serving two or more lots with a minimum of 100 feet of frontage as their primary means of access.

Remainder - The residual land left after platting of a portion of a tract. Platting of a residual may in some instances be required under the provisions of this ordinance.

Replatting - Any change in a map of an approved or recorded plat, except as permitted as an amended plat, that affects any street layout on the map or area reserved or dedicated thereon for public use or any lot line, or that affects any map or plan legally recorded prior to adoption of any regulations controlling subdivisions or additions. Replatting includes the combination of lots into a single lot for purposes of development.

Residential Lot Capacity – See Section 10-40, Chart on Street Widths, Note 4.

Resubdivision - The replatting of a subdivision plat. Any change in an approved or recorded subdivision plat that affects any street layout or area reserved thereon for public use or any lot line, or that affects a map or plan legally recorded prior to adoption of any regulations controlling subdivisions.

Right-of-Way - A strip or parcel of land occupied or intended to be occupied by a street or alley. Where appropriate right-of-way may include other facilities and utilities, such as sidewalks, railroad crossings, electrical, communication, oil or gas, water or sanitary or storm sewer facilities, or for any other special use. The use of right-of-way shall also include parkways and medians outside of pavement. The usage of the term "right-of-way" for land

platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

Secondary Arterial - A road intended to collect and distribute traffic in a manner similar to a primary arterial, except these roads service minor traffic generators such as commercial areas, hospitals, churches, and offices and are designed to carry traffic from collector streets to the system of primary arterials.

Security - The letter of credit or cash escrow provided by the applicant to secure its promises in the improvement agreement.

Setback - The distance between a building and the property line nearest to the building.

Sidewalk - a paved walk, separated from a street, and intended for the movement of pedestrian traffic and built to City of Bullard specifications.

Sketch Plat - A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Commission as to the form of the plat and the objectives of these regulations.

Street - Any thoroughfare or public way, other than an alley, more than twenty-five (25) feet in roadway width, which has been dedicated to the public for public use.

Subdivider - Any person who (1) having an interest in land causes it, directly or indirectly, to be divided into a subdivision or platted as an addition or, who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision or addition, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or addition or any interest, lot, parcel site, unit or plat in a subdivision or addition, or who, (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

Subdivision - The division of any tract or parcel of land into two or more lots for the purpose, whether immediate or future, of offer, sale or for the purpose of development. Subdivision includes the division or development of residentially and non-residentially zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument. Subdivision also includes Resubdivision. Subdivision also refers to the land to be so divided, as the context may indicate. Certain types of subdivisions do not require City approval under the terms of Section 10-32.

Substandard Street - An existing street or highway that does not meet the minimum specifications in the City of Bullard Subdivision Design Guidelines, or if a State Highway or FM Highway does not meet the minimum Standard Specifications of the Texas Department of Transportation and is not constructed to the ultimate extent for the type of roadway it is designated for in the major thoroughfare plan. A standard street is a street or highway that meets or exceeds said standard specifications and major thoroughfare plan.

Temporary Improvement - Improvements built and maintained by an owner during construction of the development of the subdivision or addition and prior to release of the performance bond or improvements required for the short term use of the property.

Tract - A lot. The term "tract" is used interchangeably with the term "lot", particularly in the context of subdivision, where a "tract" is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts, or interests.

Utilities Engineer – The official with responsibility to review and release plans for water and sewer improvement projects, or designee.

Variance – A relaxation by the Commission of the dimensional regulations of this Division where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this Division would result in unnecessary and undue hardship.

Section 10-32. Area & Activities Subject to Subdivision Rules.

a. Except as otherwise provided, these regulations apply to all subdivisions of land, located within both the City limits and within the City's extraterritorial jurisdiction.

b. The following types of subdivision do not require approval by the City. However, the City shall not extend utilities, provide access to public roads or issue building permits for the development of any property which has not received final plat approval, except as otherwise provided by this ordinance.

1. The division of land into two or more parts where all parts are larger than 5 acres, where each part has access, and where no new building or improvement is proposed and no required public improvement is to be dedicated.

2. The creation of a remainder of a tract caused by the platting of a portion of the tract, provided the remainder is larger than 20 acres.

3. The creation of a leasehold for agricultural use of the subject property, provided that the use does not involve the construction of a building(s) to be used as a residence or for any purpose not directly related to agricultural use of the land or crops or livestock raised thereon.

4. The division of property through inheritance, the probate of an estate, or by a court of law.

c. Except as provided above, no land may be subdivided or platted through the use of any legal description other than with reference to a plat approved by the Commission in accordance with these regulations.

d. No building permit or certificate of occupancy shall be issued for any parcel or tract of land inside the City limits until such property has received final plat approval and is in substantial conformity with these subdivision regulations, and no private improvements shall take place or be commenced except in conformity with these regulations.

e. Land within an industrial park may be subdivided by metes and bounds unless such division includes the planning or development of a new street or access easement, floodway easement, or extension of City owned water and/or sewer mains to serve the property. Such development shall conform to all other rules and regulations set forth herein.

Section 10-33. Platting Procedures.

a. Applicable Law for Plat Approval.

1. All applications for plat approval, including final plats, pending on May 1, 2006 and which have not lapsed, shall be reviewed under regulations in effect immediately preceding the date of adoption of these regulations.

2. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.

b. General Procedure.

1. Classification of Subdivisions and Additions - Before any land is platted, the property owner shall apply for and secure approval of the proposed subdivision plat or addition plat in accordance with the following procedures, unless otherwise provided by these regulations. Subdivisions are classified as major or minor, depending on the number of lots proposed and the extent of public improvements required.

(a) Minor subdivisions shall create no more than four lots and do not require the creation of a new street or the extension of municipal facilities. Minor subdivisions may be approved for residential and non-residential properties. Minor plat approval requires the submission of a final plat as described under Section 10-35. The City Manager may approve minor plats or refer them to the Commission for action.

(b) Major subdivisions involve the creation of new streets, the extension of municipal facilities or the creation of more than four lots. Major subdivisions may be approved for residential and non-residential properties. Plats are considered major subdivisions if they create more than four lots or involve the creation of new streets or the extension of municipal facilities. The procedure for approving a major plat typically requires two steps: preliminary plat, and final plat.

2. Official Submission Date for Items Requiring Commission and Staff Approval - For the purpose of these regulations, the date on which the application is first filed shall constitute the official submission date for the plat, after which the statutory period required for approval or disapproval of the plat shall commence. In order to comply with State law time requirements for plat review, the date of filing shall be when the application is received by the City Manager on its designated monthly submission date. The calendar of monthly submission dates is on file in the City Manager's Office.

3. Approval Criteria - Applications for plat approval shall be evaluated for compliance with these regulations and requirements contained in the Design Guidelines for Subdivision Improvements, which are incorporated herein by reference, and with any other criteria, policies, rules and plans which are referenced elsewhere in these regulations.

Pursuant to State law, the City Manager is hereby authorized to approve minor plats. The City Engineer may, for any reason, elect to present a minor plat to the Commission for approval. The City Engineer may not disapprove a minor plat and shall refer any minor plat refused for approval to the Commission within 30 days of the official date of application.

4. Statutory Compliance Procedure - The City Engineer shall place the application on a scheduled meeting of the Commission prior to the expiration of thirty (30) days following the official submission date. The Commission shall approve or disapprove the application at the meeting. If the Commission fails to approve or disapprove an application within 30 days of the official submission date, the application shall be deemed approved. Unless the Commission unconditionally disapproves the plat application within such period, the City shall continue to process the application for compliance with these regulations. The Commission shall consider the application within 30 days.

5. Application Forms and Procedures - The City Engineer may establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for a preliminary plat, replat, vacation of plat or final plat.

6. Extraterritorial Jurisdiction - Land in the City's extraterritorial jurisdiction is subject to platting, as provided by State law. The approval of a plat for land within the extraterritorial jurisdiction does not constitute approval of land use. Properties incorporated subsequent to platting are subject to the City's zoning authority.

Section 10-34. Preliminary Plat.

a. Applicability - A preliminary plat is required for all major subdivisions prior to the construction of public improvements, [except as permitted under subsection e.] If a preliminary plat is omitted, a final plat shall be required in conformance to Section 10-35.

b. Application Procedure and Requirements - On forms approved by the City, the applicant shall file for approval of a preliminary plat. The plat shall be prepared by or under the supervision of a registered public surveyor in the State of Texas and shall bear surveyors seal, signature and date on each sheet. The payment of all applicable fees shall be required at the time of submission.

1. General Application Requirement – **10** Copies of the proposed preliminary plat shall be at a scale of 1" = 100', unless otherwise approved by the City Engineer, and shall be in a form substantially as follows:

(a) A title including the name of the subdivision, developer, engineer (or surveyor), name of survey, the scale, date, a north point and approximate acreage.

(b) The boundary lines of the tract to be subdivided with courses, angles, and distances, the property lines and names of record owners of adjoining undeveloped property, easements, building lines, buildings and lots, physical features including water courses, ravines, bridges, culverts, drain pipes, sanitary and storm sewers, water mains, and other existing features on the property being developed and on undeveloped properties within two hundred (200) feet of the subject property.

(c) Contours based on U.S. Coast and Geodetic Survey mean sea level elevations at intervals, as required by the city engineer, of two (2) to five (5) feet, and approximate flood hazard lines delineating the limits of the flood plain on the unimproved property which have been determined by a registered professional engineer.

(d) Location and width of existing streets, street names, width between curbs, if paved, and alleys, within and adjacent to the property.

(e) The location, widths and names of all proposed streets, alleys or other public ways, all lots, blocks and all parcels of land to be dedicated for public use.

(f) A vicinity map shall be presented prior to submitting the preliminary plat, showing sufficient area to properly locate the proposed subdivision in relation to schools, parks, shopping centers, thoroughfares and highways.

(g) Description of subdivision by metes and bounds.

(h) Location of subdivision with respect to a corner of the survey or tract, or an original corner of the original survey of which it is a part.

2. Standards for Approval - No preliminary plat shall be approved by the Commission or City Council as applicable, unless the following standards have been met:

- (a) Provision for installation and dedication of public improvements has been made.
- (b) Plat conforms to applicable zoning and other regulations.
- (c) Plat meets all other requirements of these regulations.
- (d) Plat conforms generally to the Comprehensive Plan.

3. Approval Procedure - After review of the preliminary plat, the report and recommendations of the City Engineer concerning the application, the report and recommendation of the City Engineer on the construction plans, and any exhibits submitted at a public meeting, the applicant shall be advised of any required changes and/or additions. The Commission shall approve or disapprove the preliminary plat. One (1) copy of the proposed preliminary plat shall be returned to the owner with the date of approval or disapproval and the reasons therefore accompanying the plat. If the Commission disapproves the proposed preliminary plat, the applicant may execute an appeal pursuant to Section 10-48.

4. Effect of Approval - Approval of a preliminary plat also authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit an application for final plat approval.

5. Lapse of Preliminary Plat Approval - The approval of a preliminary plat shall be effective for a period of one (1) year from the date of approval by the Commission or the Council, at the end of which time the applicant must have submitted and received approval for a final plat. If a final plat is not submitted and approved within one (1) year, the preliminary plat approval shall be null and void, and the applicant shall be required to submit a new plat for land study review subject to the then existing zoning restrictions and subdivision regulations. (See subsection d. concerning extensions and reinstatement of approval.)

c. Amendments to Preliminary Plat

1. At any time following the approval of a preliminary plat, and before the lapse of such approval, a property owner may request an amendment. The rerouting of streets, addition or deletion of alleys, or addition or deletion of more than 10% of the approved number of lots shall be considered a major amendment. The adjustment of street and alley alignments, lengths, and paving details; the addition or deletion of lots within 10% of the approved number and the adjustment of lot lines shall be considered minor amendments.

2. The City Engineer may approve a minor amendment. Refusal to approve shall be referred to the Commission under the terms of Section 10-33. Major amendments may be approved by the Commission at a public meeting in accordance with the same requirements for the approval of a preliminary plat.

3. Approval - The Commission shall approve or disapprove any proposed major amendment and may make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment.

4. Retaining Previous Approval - If the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the Commission, the applicant may withdraw the proposed major amendment or appeal the action of the Commission to the City Council pursuant to Section 10-48.

d. Extension and Reinstatement Procedure.

1. Sixty days prior to or following the lapse of approval for a preliminary plat, as provided in these regulations, the property owner may petition the Commission to extend or reinstate the approval. Such petition shall be considered at a public meeting of the Commission.

2. In determining whether to grant such request, the Commission shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval and the extent to which newly adopted subdivision regulations shall apply to the plat or study. The Commission shall extend or reinstate the plat or study, or deny the request, in which instance the property owner must submit a new application for approval.

3. The Commission may extend or reinstate the approval subject to additional conditions based upon newly enacted regulations or such as are necessary to assure compliance with the original conditions of approval. The Commission may also specify a shorter time for lapse of the extended or reinstated plat or study than is applicable to original approvals.

e. Exceptions. The preceding requirements for the preliminary plat in this Section are waived if the following criteria are met:

1. The subdivision is actually a resubdivision of lots previously platted and filed of record in Plat Records, Smith/Cherokee County, Texas; or all proposed lots of the subdivision abut upon an existing street of adequate width such that no additional right-of-way is required; and in either case, no construction of public streets, alleys, storm sewers, sanitary sewers, or water mains is required within or for extension to the subdivision; and

2. The developer first secures written permission from the City Manager to waive the preliminary plat and proceed directly to the final plat procedure.

Section 10-35. Final Plat

a. Applicability - A final plat shall be required for subdivisions of property and the recording of single lots, if a preliminary plat has either been approved or waived pursuant to Section 10-34.

b. Application Procedure and Requirements - A final plat for minor subdivisions may be approved by the City Engineer. A final plat for a major subdivision shall require approval by the Commission. Final plats shall comply to the preliminary plat where applicable. The application shall be accompanied by the following:

1. **10** Copies of the proposed final plat bearing all information specified in Section 10-34, except Section 10-34.b.1(o) relating to contours, and the following language:

"Notice: Selling a portion of this addition by metes and bounds is a violation of city ordinance and state law and is subject to fines and withholding of utilities and building permits."

This notice does not apply to land within an Industrial Park.

2. Formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, in a form approved by the City Attorney. The plat shall be marked with a notation indicating the formal offers of dedication.

3. The improvement agreement and security, if required, in a form satisfactory to the City Engineer and shall include a provision that the property owner shall comply with all the terms of the final plat approval as determined by the Commission.

4. A recording fee in an amount required by the County Clerk.

5. Construction plans.
6. One copy of plat in digital format as approved by City Engineer.
7. Original Tax Certificate as required by State law.
8. A certificate, shown in Attachment A, of ownership and dedication of all streets, alleys, easements, and public areas, to the public use forever, signed and acknowledged before a Notary Public by the owner of the land and placed on the face of the map.
9. A statement, shown in Attachment A-1, acknowledging the existence of flood plains on the property, and dedicating a floodway easement.
10. The certificate, shown in Attachment A, of the registered public surveyor who surveyed, mapped, and monumented the land, which certificate shall be sworn to before a notary public, and shall be placed on the face of the map.

ATTACHMENT "A"

ENGINEER'S OR SURVEYOR'S STATEMENT

I, _____, Registered _____ *(Public Land Surveyor or Professional Engineer)* No. _____, do hereby certify that the above plat was prepared from an actual survey made _____ *(by me)* or _____ *(under my direction and supervision)* on the ground during _____ *(Month & Year)*.

GIVEN UNDER MY HAND AND SEAL this the _____ day of _____, 2____.

(Signature)

(Seal)

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public, in and for the State of Texas, this the _____ day of _____, 2____.

Notary Public, State of Texas)

(Seal)

OWNER'S STATEMENT

I (WE) _____ *(owners name and title if applicable)* AM (ARE) OWNER(S) of the tract of land shown hereon and do accept this as its Plan for the subdividing into lots and blocks and do dedicate to the public forever the streets, alleys, and easements as shown.

(Signature)

(Signature)

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public, in and for the State of Texas, this the _____ day of _____, 2____.

Notary Public, State of Texas

(Seal)

ATTACHMENT“A-1”

FLOODWAY EASEMENT

STATE OF TEXAS

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF SMITH

THAT whereas we _____, are the owners of the above described property and we are familiar with the terrain, elevation, high water level and all physical conditions, in, on and adjacent to said property; and

WHEREAS, said property is subject to flooding, high water and inundation due to the terrain, elevation and the fact that a creek(s) traverses or runs adjacent to said property; and

WHEREAS, the property subject to flooding, high water and inundation is marked on the plat and with the “Floodway Easement” line as shown and outlined on the plat.

WHEREFORE, PREMISES CONSIDERED:

We hereby agree that no obstruction to the natural flow of water, including storm waters and overflow water from any creek(s) shall be permitted by filling or by construction of any type of dam, building, bridge, walkway or any other structure within the floodway easement unless designed in accordance with the Storm Drainage Criteria of the City of Bullard. In the event any property owner obstructs the natural flow of the water in any manner, the City of Bullard may summarily remove any of said obstructions upon notification by mail to the owner.

We do hereby declare and dedicate this “Floodway Easement” to be a “covenant running with the land” and that this shall constitute a notice to all parties concerned including our heirs, successors or assigns and any and all purchasers of property within said subdivision.

Minimum finish floor elevation _____ feet.

WITNESS OUR HANDS AT _____, TEXAS, this _____ day of _____, 2____.

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public, in and for the State of Texas, this the _____ day of _____, 2____.

Notary Public, State of Texas

(Seal)

c. Construction Plan Procedure and Requirements -

1. General Application Requirement - Construction plans shall be prepared by or under the supervision of a professional engineer registered in the State of Texas. Plans submitted for review by the City shall be dated and bear the responsible engineer's name, serial number and designation of "engineer", "professional engineer", or "P.E." and an appropriate stamp or statement near the engineer's identification, stating that the documents are for preliminary review and are not intended for construction. Final plans acceptable to the city shall bear the seal and signature of the engineer and the date signed on all sheets of the plans. Public works construction in streets, alleys or easements which will be maintained by the city shall be designed by a professional engineer registered in the State of Texas.

2. Construction Plan Review Procedure - Copies of the construction plans and the required number of copies of the plat shall be submitted to the City Manager for final approval. The plans shall contain all necessary information for construction of the project, including screening walls and other special features. All materials specified shall conform to the Design Guidelines for Subdivision Improvements. Each sheet of the plans shall contain a title block including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made. The City Engineer will release the plans for construction after approval of the final plat by the Commission and payment of all inspection fees. Upon such release, each Contractor shall maintain one set of plans, stamped with City release, on the project at all times during construction.

3. Failure to Commence Construction - If construction has not commenced within one (1) year after approval of the plans, resubmittal of plans may be required by the City Engineer for meeting current Design Guidelines for Subdivision Improvements. "Construction" shall mean installation of City maintained public improvements.

d. Standards for Approval - No final plat shall be approved by the City Engineer or the Commission or City Council unless the following standards have been met:

1. Plat substantially conforms to the preliminary plat.
2. Plat conforms to applicable zoning and other regulations.
3. Provision has been made for adequate public facilities under the terms of this ordinance.
4. Plat meets all other requirements of this ordinance.
5. Plat conforms generally to the Comprehensive Plan.

e. Approval Procedure - After review of the final plat, the City Manager shall place the final plat for consideration on the agenda of a public meeting of the Commission. Minor plats may be approved by the City Engineer or referred to the Commission in accordance with Section 10-34. In the event of disapproval, reasons for disapproval shall be stated. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the final plat and, if the final plat is disapproved, the reasons for disapproval accompanying the final plat.

f. Appeals – If the Commission disapproves the final plat, the applicant may appeal to the Council in the manner prescribed in Section 10-48.

g. Letter of Compliance - Upon final approval of a final plat required by these regulations, the City Engineer shall issue to the applicant a Letter of Compliance stating that the final plat has been approved by the

Commission and/or the City Council. For purposes of this section, final approval shall not occur until all conditions of approval have been met.

h. **Signing and Recording of Final Plat** - It shall be the responsibility of the City Manager to file the final plat with the County Clerk. Simultaneously with the filing of the final plat, the City Engineer shall record such other agreements of dedication and legal documents as shall be required to be recorded by the City Attorney. The final plat, bearing all required signatures, shall be recorded after final approval and within sixty (60) working days of receipt of the signed originals. One (1) copy of the recorded final plat, with street addresses assigned, will be forwarded to the property owner and others as designated by the City Manager.

i. **Effect of Approval** - Approval of a final plat shall certify compliance with City regulations pertaining to the subdivision of land. An approved and signed final plat may be filed with the County as a record of the subdivision of land and may be used to reference lots and interests in property thereon defined for the purpose of conveyance and development as allowed by these regulations.

Section 10-36. Replatting.

Replatting of Land

1. **Replat Required** - Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the platting of land by these regulations.

2. **Replatting Without Vacating Preceding Plat** - A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

(a) Is signed and acknowledged by only the owners of the property being replatted;

(b) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

(c) Is approved by the City Manager or Commission or City Council, as applicable.

3. Any replat which adds or deletes lots must include the original lot boundaries.

4. Plats must conform to applicable State law with regard to public notification requirements in Texas Local Government Code Sections 212.014 and 212.015, or successors.

Section 10-37. Amending Plats

The City Manager may, upon petition of the property owner or developer, approve and issue an amending plat which is signed by the applicants only, unless remove period otherwise required to the contrary, and which is for one or more of the purposes amending plats set forth in Texas Local Government Code Section 212.016, or successor, and such approval and issuance shall not require notice, hearing, or approval of other lot owners.

Section 10-38. Plat Vacation

a. **By Property Owner** - The property owner of the tract covered by a plat may vacate, upon the approval of the Commission, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.

b. By All Lot Owners - If lots in the plat have been sold, the plat may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

c. Criteria - The Commission shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety and welfare. As a condition of vacation of the plat, the Commission may direct the petitioners to prepare a revised final plat in accordance with these regulations.

d. Effect of Action - On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Commission's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the Commission.

Section 10-39. Reserved

Section 10-40. Requirements for Public Improvements and Design

a. General Requirements

1. Plats Straddling Municipal Boundaries - Whenever access to the subdivision or addition is required across land in another municipality, the City Engineer may request assurance from that municipality's Attorney that access is legally established, and from its Engineer that the access road is adequately improved, or that a bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal or county boundary lines.

2. Character of the Land - Land that is unsuitable for subdivision or development due to flooding, utility easements, or other features which will reasonably be harmful to the safety, health, and welfare of the present or future inhabitants of the subdivision or addition and/or welfare of its surrounding areas, shall not be subdivided or platted unless adequate methods are formulated by the owner and accepted by the City Engineer.

3. Adequate Public Facilities Policy - The land proposed for subdivision must be adequately served by essential facilities and services. Design of improvements shall conform to the Design Guidelines for Subdivision Improvements. These services include street access, water, waste water disposal, and off-site drainage. No plat or replat may be approved unless it conforms to this policy and its standards. This policy may be further defined and supplemented by other City ordinances.

(a) Street Access - All platted lots must have safe and reliable street access for daily use and emergency purposes.

(1) All platted lots must have direct access to an improved public street, private street, or an approved public way, and connected by improved public streets to an improved public thoroughfare.

(2) Except for lots which are provided access from an approved cul-de-sac, all subdivisions must have adequately designed access or approach as approved by the City Engineer. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the City may accept a temporary street connection, or a median divided street or entry to satisfy this requirement.

(b) Water - All platted lots must be connected to a State approved water system.

(1) Except for lots along an approved cul-de-sac, all lots within the City limits and as appropriate in the ETJ must be provided service connections from a looped water main providing water flow from two directions or sources.

(2) Water service must be sufficient to meet the fire flow requirements of the proposed development, except where a suitable alternative means of fire protection is approved by the City Fire Chief.

(3) The City may accept development phasing, development restrictions, and/or the construction of improvements to maintain adequate fire protection.

(c) Waste Water - All platted lots must be served by an approved means of waste water collection and treatment.

(1) On-site waste water treatment systems will not be permitted, except for the pretreatment of industrial waste, unless approved by the Bullard City Engineer.

(2) The projected waste water discharge of a proposed development shall not exceed the capacity of the waste water system.

(3) The City may accept the phasing of development and/or improvements to the systems so as to maintain adequate waste water capacity.

(4) Where off-lot sewerage is not required or is not to be provided, on-site sanitary sewer facilities shall conform to Onsite Sanitary Sewage Facility standards. The minimum lot size as well as the septic tank system design and construction shall be in accordance with the Texas Natural Resource Conservation Commission publication entitled "Construction Standards for Onsite Sanitary Sewer Systems" (November 30, 1977) or successor, and as approved by the designated representative of Smith County.

(5) The developer of a subdivision in Zone 2 of the extraterritorial jurisdiction shall obtain from a Smith County-designated agent a letter indicating whether or not the subdivision complies with the requirements of Chapter 8 of the Smith County Ordinance regulating the installation of on-site sewage disposal systems per Texas Commission on Environmental Quality or successor's On-site Sewage Facility Enforcement Program.

(d) Drainage - Increased stormwater runoff attributable to new development must not exceed the capacity of the downstream drainage system or adversely affect adjoining or downstream property. Where the projected runoff would exceed capacity, the City may accept the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements as means of mitigation.

4. Subdivision or Addition Name - The proposed name of the subdivision or addition shall not duplicate, or too closely approximate phonetically, the name of any other subdivision or addition in the area covered by these regulations and shall, where possible, correspond to named subdivisions or additions in the immediate vicinity. The Commission shall have final authority to approve the name of the subdivision or addition.

5. Corner and Reference Markers

(a) All lot corners shall be located and marked with one half (1/2) inch reinforcing bar, eighteen (18) inches in length, and shall be placed flush with the ground or counter sunk, if necessary, in order to avoid being disturbed.

(b) Iron rods, one half (1/2) inch in diameter and eighteen (18) inches long, shall be placed on all boundary corners, block corners, curve points, and angle points in public rights-of-way. Monuments shall be located as required by the City Engineer and shall be located along all drainage/floodway boundaries at all curve points, angle points and at least one monument at lot corners. One monument may serve two lots if located at a common corner.

b. Lot Design and Improvements

1. Lot Arrangement - The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Ordinance, Building Code and other applicable ordinances, laws and regulations. Driveway access shall be provided to buildings on the lots from an approved street, alley or public way.

2. Lot Dimensions - Lot dimensions shall comply with the minimum standards of the Zoning Ordinance. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking, landscaping, and loading facilities required for the type of use and development contemplated, as established in the Zoning Ordinance.

3. Double Frontage Residential Lots - Double frontage and reversed frontage lots shall be avoided except where necessary to separate residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

4. Blocks

(a) Blocks shall generally have sufficient width to provide for two (2) tiers of lots of appropriate depths.

(b) The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated. In general, blocks shall be approximately one thousand (1,000) feet long, but the length may be varied according to circulation, topography, and provisions of the Master Street Plan.

5. Non-residential Plats -

(a) General - A non-residential plat shall be subject to all the requirements of these regulations, except those that clearly pertain only to residential properties, as well as such additional standards as may be required by the Commission, and shall conform to the proposed land use and standards established in the Comprehensive Plan and Zoning Ordinance. Site plan approval and plat approval may proceed simultaneously at the discretion of the Commission.

(b) Design Principles - In addition to these regulations, which are appropriate to all platting, the applicant shall demonstrate to the satisfaction of the Commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles shall be observed:

(1) Proposed non-residential parcels shall be suitable in area and dimensions to the types of non-residential development anticipated.

(2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

(3) Residential areas shall be protected from potential nuisance from a proposed non-residential plat.

(4) Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or future residential areas, except where required by the Master Street Plan.

(c) Frontage and Access Standards - All non-residential lots established following (effective date of this ordinance) shall meet the following frontage and access criteria:

(1) Frontage - All frontage shall conform to the requirements of the specific zoning district as set forth in Chapter 10, Article IV.

(2) Access Standards - All non-residential lots shall have access to a public street.

(3) When adjacent to a median divided street, all lots shall have access to a median opening. Direct access should be provided where possible. If direct access is not available, a corner lot shall have indirect access through a shared access easement between it and adjacent properties. All off-corner lots shall have direct access, or indirect access, by platting a minimum of one half of the intersecting drive as a shared access easement.

6. Soil Preservation and Final Grading - Soil Preservation and Final Grading shall conform to the regulations set forth in Chapter 10 Article III, Division E.

7. Debris and Waste - No cut trees, timber, debris, large rocks or stones, junk, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of final acceptance by the City Engineer, and removal of those items and materials shall be required prior to such acceptance. No items and materials as herein described shall be left or deposited in any area of the subdivision or addition at the time of expiration of any improvement agreement or acceptance of dedication of public improvements, whichever is sooner. However, dirt or topsoil may be stockpiled on a property with approval of the City Engineer.

c. Thoroughfare Screening

Where subdivisions or additions are platted so that the rear yards of residential lots are adjacent to a dedicated roadway or separated from a roadway by an alley or service road, the owner shall provide screening at owner's sole expense. The Commission may waive or modify, in exceptional cases, this requirement. A screening plan, including elevations and materials, shall be submitted with the preliminary plat. All forms of screening shall conform to the requirements of ordinances governing the sight distance for traffic safety and other City ordinances. Additional right-of-way or easements may be required for wider columns and more elaborate screening walls.

d. Streets and Thoroughfares

1. Adequacy of Streets and Thoroughfares - All streets and alleys shall be designed and platted in conformance with the Master Street Plan, the Design Guidelines for Subdivision Improvements, and other valid development plans approved pursuant to these regulations. Access to all lots must be suitably improved or secured by provisions contained in these regulations.

2. Design Standards -

(a) General - In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, sanitation, and street-maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, an adequate street and thoroughfare system shall be designed in accordance with the standards set forth in these regulations, together with those contained in the Design Guidelines for Subdivision Improvements. The Standard Specifications for Public Works Construction, and the Standard Construction Details are incorporated herein by reference. In the event of a conflict between these or other regulations and those contained in such documents, the more specific and/or restrictive provisions shall be applied. Paving and other improvements are subject to the participation policies stated in Sections 10-45 – 10-46.

(b) Alleys - Alleys within Single Family Residential Districts shall be constructed a minimum of 15 feet in width within a minimum 20-foot right-of-way. Wider alleys, when required for drainage, screening walls, or other purposes, shall be constructed in rights-of-way approved by the City Engineer. Alleys for other than Single Family residential uses shall be dedicated and paved a minimum of 20 feet in width. The owner shall construct the full width of the alley at owner's own cost.

(c) Curb and Gutter -Curb and gutter shall be standard City design and construction and shall be required in all subdivisions except residential subdivisions having all lots in excess of two (2) acres of land. Such exception shall only apply if said street is a local street, not extensions of, on either or both ends, collector streets or streets proposed as such in the Master Street Plan.

(d) Future Connections - Street extensions may be required to link subdivisions as the neighborhood develops. Temporary cul-de-sacs shall be installed by the developer when required by the City Engineer.

(e) Traffic Buttons - The developer shall be responsible for the installation of traffic buttons which are necessary for the safe transition or channelization of traffic. When required by the City Engineer the owner shall install traffic buttons for lane dividers. All traffic buttons shall be installed as required by the City Engineer.

(f) Reserve Strips - The creation of reserve strips shall not be permitted in such a manner as to deny access from adjacent property to any street, alley or officially approved place.

(g) Topography and Arrangement -

(1) All streets shall be properly integrated with the existing and proposed system of streets and dedicated rights-of-way as established on the Master Street Plan.

(2) Proposed streets shall be extended to the boundary lines of the tract to be platted, unless prevented by topography or other physical conditions, or unless in the opinion of the Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision or addition with the existing layout or the most advantageous future development of adjacent tracts.

(h) Continuation of Streets and Cul-de-sacs –

(1) Continuation of Streets - The arrangement of streets shall provide for the continuation of streets between adjacent properties.

(2) If the adjacent property is undeveloped and the street must temporarily be a dead-end street the right-of-way shall be extended to the property line.

(3) Where existing alleys are used, alley turnouts shall be provided to new subdivisions.

(4) Cul-de-sacs - For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be prohibited. However, the Commission may require the reservation or dedication of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with Design Guidelines for Subdivision Improvements.

(5) Temporary Dead-End Streets - The City may require the construction of temporary dead-end streets in order to provide for the future connection of subdivisions and to ensure reasonable access and avoid excessive street length.

(i) Street and Alley Length -

(1) In general, blocks shall be approximately one thousand (1,000) feet long, but the length may be varied according to circulation, topography, and provisions of the Master Street Plan. Blocks shall have a minimum width of two hundred (200) feet.

(2) No cul-de-sac unless otherwise authorized by the Commission shall exceed 600 feet in length, which is to be measured from the centerline of the street with which it intersects to the center point of the cul-de-sac.

(3) Cul-de-sac lengths longer than those specified in this section shall require approval of a variance. In reviewing a variance, the Commission shall consider the following:

(i) Alternative designs which would reduce street, cul-de-sacs, or alley length;

(ii) The effect of overlength streets, cul-de-sacs, or alleys on access, congestion and delivery of municipal services; and

(iii) Means of mitigation, including but not limited to increased street width, mid-block turnarounds, limitation on the number of lots to be created and served, temporary points of access, and additional fire protection measures.

(j) Street Names and Signs -

(1) Street names must be submitted to the City Manager's Office for approval. Street names and subdivision names will be referred to the 9-1-1 Network of East Texas for verification. Streets that are to be in alignment with existing streets shall be given the same name. Names shall be sufficiently different in sound and spelling so as not to cause conflict or confusion. The City Manager's Office will maintain an index of street names. Street names and subdivision names are fixed at the time of approval of the final plat.

(2) The developer shall provide payment for street name signs for the development. The price of each street name installation shall include cost of the sign

assembly, pole, and installation. Payment by the developer will be due prior to approval of the engineering plans by the City Engineer.

(3) Street name signs shall be installed by the City upon acceptance of the development improvements by the City Engineer.

(k) Street Lights - Installation of street lights are subject to approval by the City Engineer and shall be in accordance with the Design Guidelines for Subdivision Improvements. The developer shall be responsible for the cost of such street lighting installation as required. The developer shall install conduit for street lights and traffic signals in divided thoroughfares as directed by the City Engineer.

(l) The pavement structure shall be designed in accordance with the Design Guidelines for Subdivision Improvements in Bullard.

(m) Environmental considerations:

Whereas it is an environmental hazard and can cause property damage to increase the turbidity of streams or increase the sedimentation onto private property, it shall be the responsibility of property owners, developers, builders, contractors and others disturbing the natural surface or ground cover, both collectively and separately, to institute such precautions as may be necessary to prohibit erosion, sediment transport, and/or siltation into any storm sewer conveyance system or onto nearby properties. The property owner is required to submit any erosion control plan which must be approved by the City Engineer to the disturbing of the natural surface or ground cover. An erosion control plan should be included with the construction plans for paving, drainage, and utilities, and with the site plans submitted for approval for building permits in all zoning except single family and duplex. It is unlawful to pollute or obstruct the flow of water in such streams by introducing into said waterways construction debris, trees, brush, or other cleared materials, excavated material, trash or rubbish.

(n) For public or private street construction occurring within a subdivision in the extraterritorial jurisdiction, the developer shall provide to City a construction bond or letter of credit in the amount of *twenty dollars (\$20.00)* per linear foot of roadway, which shall be in effect until street construction is completed.

(o) For public street construction occurring within a subdivision in the extraterritorial jurisdiction, the developer shall provide to City a one-year maintenance bond or letter of credit in the amount of ten dollars (\$10.00) per linear foot of roadway; which shall be in effect after the acceptance of construction.

3. Street Dedications and Reservations

(a) Dedication of Right-of-Way - The developer shall provide all right-of-way required for existing or future streets, as shown in the Master Street Plan or other valid development plans approved by the Commission or City Council as applicable. In the case of perimeter streets, half of the total required right-of-way for such streets shall be provided. However, in some instances more than half shall be required depending on the actual or proposed alignment of the street.

(b) Perimeter Streets - Where an existing half-street is adjacent to a proposed subdivision or addition, the unimproved half of the street shall be dedicated and improved by the developer.

(c) Slope Easements - The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three feet horizontal to one foot vertical.

4. Street Construction - The developer shall construct all streets or thoroughfares to City standards in rights-of-way as required by the Master Street Plan, subject to participation policies stated in Sections 10-45 – 10-46. Streets (including sidewalks) which dead-end at power lines, railroad, or similar rights-of-way, and are intended for future extension shall be constructed in the full right-of-way as required by the Master Street Plan for half the distance across such right-of-way for each side. Widths shown below are back to back of curbs and required on both sides of divided streets. Developers of property abutting only one side of a street are responsible for the minimum paving widths shown below. The minimum paving widths for the various types of streets shall be as follows:

STREET WIDTHS

TYPE	NAME	ROW WIDTH	STREET WIDTH (face to face)	RESIDENTIAL LOT CAPACITY (Note 4)
	CUL-DE-SAC	55'	28'	Cul-de-sacs
F	RESIDENTIAL	55'	28'	Less than 60
			(Note 1)	
E	COLLECTOR	60'	32'	60 - 125
	LOCAL			
D	COLLECTOR	60'	40'	More than 125
	MINOR OR			
	COMMERCIAL			
C	COLLECTOR	70'	40'	
	MAJOR		(Note 2)	
B	ARTERIAL	90'	64'	
	MINOR			
A	ARTERIAL	110'	88'	
	MAJOR			

Note 1: Street extensions or stub-outs into unplanned areas shall have a minimum pavement width of thirty-two (32') feet measured face of curb to face of curb.

Note 2: The width of a major collector shall be flared to fifty-two (52') feet at the intersection with an arterial or major collector. The width of the right-of-way shall be flared to eighty (80') feet.

Note 3: Commercial use shall be based on the following Zoning Districts: R-3, C-1, C-2, C-4, M-1, M-2 and M-3.

Note 4: The intent of this ordinance is to define *Residential Lot Capacity* as the total number of lots served by a specific street category, inclusive of all lesser category streets, divided by the number of City approved intersections with a higher category street. For example, the maximum Residential Lot Capacity for a Type F Residential street would be determined by calculating the total number of lots fronting on that street, plus any lots fronting on cul-de-sacs with access only to the above mentioned Type F Residential street, divided by the number of intersections with a Type E Local Collector street.

5. Improvement, Widening, and Realignment of Existing and Proposed Streets - Where a subdivision or addition borders a substandard street or when the Master Plan indicates plans for realignment, widening or constructing a street that would require use of some of the land in the subdivision or addition, the applicant shall be required to improve and dedicate those areas for widening or realignment of those streets, as follows:

(a) When a proposed subdivision or addition abuts or will abut both sides of a substandard street or a proposed street in the Master Street Plan, the developer shall be required to improve the substandard street or proposed street so that it will be a standard street, including sidewalks. The minimum street paving width shall be shown in Chart of Street Widths set forth in this Section.

(b) If the proposed subdivision or addition is located along only one side of a substandard street or a proposed street in the Master Street Plan, the developer shall be required to improve developer's side of the substandard street or proposed street, including sidewalks, so that it will be a standard street. The minimum street paving width shall be as shown in Chart of Street Widths set forth in this Section. The developer may, however, petition the City to construct the improvements herein required, subject, upon approval, to the City's escrow policies stated in 10-46.

(c) When an arterial street is to be extended through a property to intersect with another arterial street, all lanes shall be constructed for a minimum distance of 350 feet from the point of intersection. From that point the pavement width may be decreased by two lanes, with provision of an appropriate transition in paving width. If property abutting only one side of the proposed thoroughfare is to be developed, then half the roadway will be constructed, including left turn lane and transition. This provision will not require widening an existing intersection that already provides four through lanes.

Section 10-41. Private Streets and Alleys

Subdivisions may be developed with private streets and alleys instead of public streets and alleys if the development complies with the requirements of this section and the subdivision has received zoning approval for a private street development. The term private street shall be inclusive of alleys. Variances to these requirements shall not be permitted.

a. Design and Construction Standards - Private streets shall conform to the same standards regulating the design and construction of public streets. These standards shall include, but are not limited to, the following:

1. Minimum Pavement width of private streets shall be 28 feet measured from face of curb to face of curb.

2. Design Guidelines for Subdivision Improvements; and

3. Street Naming requirements in Section 10-40.

b. Streets Excluded - Streets shown on the Master Street Plan of the Transportation Element of the Comprehensive Plan shall not be used, maintained or constructed as private streets. Also, the Commission may deny the creation of any other private street if, in the Commission's judgment, the private street would negatively affect traffic circulation on public streets or impair access to property either on-site or off-site to the subdivision, impair access to or from public facilities including schools and parks, or delay the response time of emergency vehicles.

c. Property Owners Associations Required - Subdivisions developed with private streets and alleys must have a mandatory property owners association which includes all property served by private streets. The association shall own and be responsible for the maintenance of private streets and appurtenances.

d. Private Street Lot - Private streets and alleys must be constructed within a separate lot owned by the property owners association. This lot must conform to the Design Guidelines for Subdivision Improvements. An easement shall be granted to the City providing unrestricted use of the property for utilities and the maintenance of same. This right shall extend to all utility providers, including telecable companies, operating within the City. The easement shall also provide the City with the right of access for any purpose related to the exercise of a governmental service or function including, but not limited to, fire and police protection, inspection and code enforcement. The easement shall permit the City to remove any vehicle or obstacle within the street lot that impairs emergency access.

e. Construction and Maintenance Cost - The City shall not pay for any portion of the cost of constructing or maintaining a private street.

f. City Utilities – Water facilities placed within the private street and alley shall be installed in conformance with Chapter 19. Sewer and drainage facilities placed within the private street and alley shall be installed in conformance with the Design Guidelines for Subdivision Improvements. All such facilities shall be dedicated to the City prior to final approval.

g. Plans and Inspections - Developments proposed with private streets must submit to the City the same plans and engineering information required to construct public streets and utilities. Requirements pertaining to inspection and approval of improvements for private streets shall be the same as for public streets. Fees charged for these services shall also apply. City will inspect private streets during construction. City shall periodically inspect private streets and require repairs necessary to insure emergency access.

h. Access Restrictions - The entrances to all private streets must be marked with a sign stating that it is a private street. Guard houses, access control gates and cross arms may be constructed. All restricted access entrances must be in compliance with Section 10-49. If the association fails to maintain reliable access as required to provide City services, the City may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the association.

i. Petition to Convert to Public Streets - The Property Association may request the City accept private streets and alleys and the associated property as public streets and right-of-way. However, in no event shall the City be obligated to accept said streets and alleys as public. Should the City elect to accept the streets and alleys as public, the City may inspect the private streets and assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets and alleys. The City will be the sole judge of whether repairs are needed. The City may also require, at the association's expense, the removal of guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot.

j. Street Sign Standards – Signs identifying Private Streets shall conform to the same minimum standards regulating the design and construction of signs identifying Public Streets as approved by the City Engineer. Private Street Signs located at the intersection of a Private Street with a Public Street are subject to approval by the City Engineer. All private traffic signs shall conform to the Texas Manual of Uniform Traffic Control Devices.

Section 10-42. Sidewalks

All developments shall provide sidewalks for the purpose of providing pedestrian circulation within the subdivisions and access to neighborhood or community facilities, and to current or future transportation facilities.

a. General Requirements

1. Sidewalks shall be constructed according to the Design Guidelines for Subdivision Improvements.

2. All developments shall provide sidewalks along both sides of all streets within the same subdivision and along the subdivision side of all perimeter streets adjacent to the subdivision.

3. In lieu of requiring sidewalks along both sides of all streets, the Commission may approve a master pedestrian traffic plan as part of the preliminary plat for the subdivision. Such plan shall provide adequate pedestrian access as approved by the Commission.

4. Sidewalks shall not be required for a replat of property for single family residential use if the preceding plat covering the same property did not require sidewalks.

5. Sidewalks do not have to be installed where no curb and gutter is required or exists.

6. Sidewalks are not required on cul-de-sacs.

7. Properties that have had a preliminary plat approval prior to May 1, 2006 shall be exempted from the requirements in this Section.

8. Subdivisions in the ETJ shall comply with Section 10-47.

b. Residential Subdivisions

1. Sidewalks shall be constructed by the developer at all intersections, block ends, bridges and areas adjacent to greenbelts and common areas, along all perimeter streets that require sidewalks.

2. Sidewalks shall be constructed by the builder along all frontage of the lot as determined by the building permit. Such sidewalks are not required on a lot until completion of the building construction. Authorization for occupancy shall not be granted until acceptance of the sidewalk by the City.

c. Non-Residential Subdivisions

1. Sidewalks shall be constructed along all streets prior to final acceptance of the subdivision by the City Engineer. Certification of Occupancy shall not be issued and final inspections shall not be approved until this requirement has been met.

2. When the delay of sidewalk construction is deemed appropriate by the City Engineer, escrow funds in lieu of the construction of sidewalks may be approved by the City Engineer. Such funds shall be escrowed with the City prior to the filing of the final subdivision plat. If the tract has been platted and filed, then the funds must be escrowed prior to final inspection or approval of the Certificate of Occupancy. The escrow amount shall be determined by the square foot cost of constructing such sidewalk, as estimated by the City Engineer.

SIDEWALK REQUIREMENTS

STREET TYPE	STREET NAME	REQUIRED SIDEWALK	SIDEWALK WIDTH	LOCATION OF SIDEWALK	SIDEWALK ALTERNATIVE
	CUL-DE-SACS	No			
F	RESIDENTIAL	Yes	4 Feet	Both Sides	Yes
			(Note 1)	@ 5 1/2 Feet	Master Plan
				Back of Curb	(Note 2)
E	COLLECTOR	Yes	4 Feet	Both Sides	Yes
	LOCAL		(Note 1)	@ 5 1/2 Feet	Master Plan
				Back of Curb	(Note 2)
D	COLLECTOR	Yes	4 Feet	Both Sides	Yes
	MINOR OR		(Note 1)	@ 5 1/2 Feet	Master Plan
	COMMERCIAL			Back of Curb	(Note 2)
C	COLLECTOR	Yes	4 Feet	Both Sides	(Note 3)
	MAJOR		(Note 1)	@ 9 1/2 Feet	
				Back of Curb	
B	ARTERIAL	Yes	4 Feet	Both Sides	(Note 3)
	MINOR			@ 4 feet from ROW	
A	ARTERIAL	Yes	4 Feet	Both Sides	(Note 3)
	MAJOR			@ 19 1/2 Feet	
				Back of Curb	

Note 1: If sidewalk is placed at the back of curb, the width shall be five (5') feet.

Note 2: A Sidewalk Master Plan of the sidewalk network for the subdivision shall be submitted with the preliminary plat. The Sidewalk Master Plan shall show the location and widths of all new sidewalks and greenbelt trails being planned for the subdivision and the connection points with existing sidewalks and greenbelt trails. The alignment, location, and width of the sidewalk may be varied if approved on the Sidewalk Master Plan.

Note 3: The City Engineer may approve variances to the location of the sidewalk.

Section 10-43. Drainage and Water Utility Improvements

a. Design of Facilities -

1. Design of Facilities – Drainage facility needs caused by the development or use of a piece of property must be identified and provided for in appropriate stages of development. The objectives of drainage planning and facilities is to protect the uses of the platted property and safety of citizens who use the platted property in the future and to prevent development and usage of the platted property from adversely affecting others. Design of storm sewer systems, materials and construction shall be in accordance with the Design Guidelines for Subdivision Improvements. When a project is determined to be in the jurisdictional control of the U. S. Corp of Engineers, in regard to the Federal Clean Water Act or successor, the City requirements for drainage improvements will be subordinate to the requirements of a Section 404 Permit of the Federal Clean Water Act, or successor. During the platting process, the flood hazard areas shall be identified and drainage easements dedicated to the public on the final plat. Plans shall be submitted with the plat. The owners and developers of property have the duty to:

(a) Accommodate Upstream and Adjacent Drainage Areas - A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from ultimate development conditions from its entire upstream drainage area, whether inside, outside, along or adjacent to the subdivision or addition. The owner's engineer shall initially determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance, subject to approval by the City Engineer.

(b) Effect on Downstream Drainage Areas - The owner's engineer shall study the affect of each addition's storm runoff on the existing drainage facilities at a reasonable distance downstream of the addition as determined by the City Engineer. Where it is determined that existing capacity is not available immediately downstream, the owner's engineer shall design a drainage system, detention facility, or parallel system to mitigate the deficiency. The Commission shall deny the plat until the construction plans for such mitigation has been approved by the City Engineer. If oversize improvements are required, then the City may participate in the cost as prescribed by this Ordinance.

(c) Requirements for Developments in Drainage Areas Less Than One-Half (1/2) Square Mile - Drainage areas having a contributing watershed less than one-half (1/2) square mile shall be provided for in accordance with the Design Guidelines for Subdivision Improvements. Water conveyances shall consist of pipe culverts, box culverts placed underground, or improved open channels. An improved open channel is one in which the channel bottom sides are lined with reinforced portland cement concrete or other structurally sound material approved by the City Engineer to the depth that will convey the 100-year frequency flood.

(d) Requirements for Developments in Drainage Areas Greater Than One-Half (1/2) Square Mile and Less Than One (1) Square Mile - Drainage areas having a contributing watershed greater than one-half (1/2) square mile and less than one (1) square mile shall be provided for by one of the following methods:

(1) Drainage improvements may be provided for in accordance with the Design Guidelines for Subdivision Improvements. Water conveyances shall consist of pipe culverts, box culverts placed underground, or improved open channels. An improved

open channel is one in which the channel bottom sides are lined with reinforced portland cement concrete or other structurally sound material approved by the City Engineer to the depth that will convey the 100-year frequency flood.

(2) When the floodplain is part of an overall Master Plan of the development, the City Engineer may allow the floodplain to be left in a natural state or greenbelt. The greenbelt shall be required to be dedicated to the City or a Home Owners Association for maintenance. The minimum dedication shall be 25 feet on each side of the defined floodplain limits. If the dedication is to the City, maintenance by the City shall consist of removal of dead or fallen trees blocking the drainage. In general, the greenbelt area shall be left in a natural state.

(e) Requirements for Developments in Drainage Areas Greater Than One (1) Square Mile - Drainage areas having a contributing watershed greater than one (1) square mile shall be provided for by one of the following methods:

(1) The stream may be left in its natural state with minor improvements and no development within its floodplain. Minor improvements include the removal of dead trees, discarded debris and obstructions that would hinder the conveyance of water. In zones other than R1a, R1b, R2, and PUR zones, the entire floodplain shall be platted and dedicated to the City as a floodway easement. The City will maintain the easement in the same condition as provided when the easement is within the City limits. In R1a, R1b, R2, and PUR zones the entire floodplain shall be platted as a separate lot and dedicated to the City or Home Owners Association for maintenance. The City will maintain the easement in the same condition as provided when the easement is within the City limits. The Commission may waive this dedication requirement only for the following exceptions:

(i) Replats which were originally platted prior to the dedication requirements.

(ii) Subdivisions of five (5) lots or less.

(2) The floodplain fringe may be reclaimed for use as long as the floodway is protected and the 100-year flood elevation is not raised more than one (1) foot. This method of development may require erosion control to offset changes in the stream regimen caused by development of the property and drainage improvements in accordance with Chapter 10, Article III., Division E. In zones other than R1a, R1b, R1c, R2, PUR, PMF, and RTH, the entire floodway shall be platted and dedicated to the City as a floodway easement. The City will maintain the easement in the same condition as provided when the easement is within the City limits. In R1a, R1b, R2, and PUR zones the entire floodway shall be platted as a separate lot and dedicated to the City or Home Owners Association for maintenance. The City will maintain the easement in the same condition as provided when the easement is within the City limits. The Commission may waive this dedication requirement only for the following exceptions:

(i) Replats which were originally platted prior to the dedication requirements.

(ii) Subdivisions of five (5) lots or less

(3) The stream may be reconstructed or relocated to accommodate development. The new channel shall be sufficient to convey the 100-year flood. The design will include erosion control such as seeding, sodding, channel lining, or a combination of these. In zones other than R1a, R1b, R2, and PUR zones, the entire

floodway with proper access easements shall be platted and dedicated to the City as a floodway easement. The City will maintain the easement in the same condition as provided when the easement is within the City limits. In R1a, R1b, R2, and PUR zones the entire floodway and proper access easement shall be platted as a separate lot and dedicated to the City or Home Owners Association for maintenance. The City will maintain the easement in the same condition as provided when the easement is within the City limits. The Commission may waive this dedication requirement only for the following exceptions:

(i) Replats which were originally platted prior to the dedication requirements.

(ii) Subdivisions of five (5) lots or less

(f) Detention Facilities - Lakes, detention ponds, and retention ponds may be constructed in all areas provided they are approved by the City Engineer. The City may assume maintenance responsibilities for this type of facility only if title to the facility passes to the City, if approved by the Council; however, easements shall be provided to ensure protection of these areas for maintenance purposes.

(g) Alternate Facilities - Other innovative drainage concepts will be considered if approved by the City Engineer. Any City costs are subject to approval by the City Council.

2. Dedication of Drainage Easements -

(a) Access to Floodway Easements - The Developer must provide sufficient access on each side of and parallel to creeks or drainage ways for maintenance purposes. The access shall be above the base flood elevation and accessible to vehicles and equipment. Access must also be provided at a maximum 1200 foot spacing along streets or alleys. The location and size of the floodway easement shall be determined by the City Engineer. The width of the access easement shall be 20 feet. Permanent monuments, the type and locations of which to be determined by the City Engineer, shall be placed along the boundaries of the maintenance and access easement and private property. This access easement shall be included in the dedication requirements of this section and included in the drainage and floodway easement width.

(b) Drainage Easements - Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual, unobstructed easements shall be provided. The minimum width of the easements shall be twelve (12) feet in R1b zoning and fifteen (15) feet in R1a zoning. Depending on depth and size of drainage facility, the City Engineer may require wider easements. Easements shall be indicated on the plat. Drainage easements shall extend from the street to a natural watercourse or to other drainage facilities. When a proposed drainage system will carry water across private land outside the subdivision or addition, appropriate drainage easements must be secured.

b. Sewage Facilities

1. Adequate Sewage Facilities - Sanitary sewer facilities serving the subdivision or addition shall connect with the City's sanitary sewer system, and shall conform to the City's Master Sewer Plan for sewage treatment and collection. Sewers shall be installed to serve each lot and to grades and sizes according to specifications herein identified or referenced.

2. Design and Construction Requirements - Design of sanitary sewers shall be in accordance with the City's Design Guidelines for Subdivision Improvements and 30 T.A.C. 317, or successor. Materials and

construction shall conform to the Standard Specifications and Standard Construction Details of the City of Bullard. The sanitary sewer system shall conform to the City's sewer studies for the various drainage basins.

3. Sewage Locations - Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be provided to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley right-of-way when possible.

4. Plan Approval. The City Engineer shall be responsible for receiving and approving construction plans for sewage facilities.

c. Water Facilities

1. Adequate Water Facilities - Water systems serving the subdivision or addition shall connect with the City's water supply and distribution system, and shall conform to the City's Master Water Plan for water supply, treatment and distribution. Water facilities shall be installed to serve adequately each lot and to grades and sized according to specifications herein contained or referenced.

2. Design and Construction Requirements - Design of water systems shall be in accordance with the Design Guidelines for Subdivision Improvements and 30 T.A.C. 290, Subchapter D, "Rules and Regulations for Public Water Systems", or successor. Materials and construction shall conform to the Standard Specifications and Standard Construction Details of the City of Bullard. The water system shall be in accordance with the City's Master Water Plan.

3. Fire Hydrants - Fire hydrants and valves shall be required for all subdivisions and additions and shall be located to satisfy the requirements of the Fire Department. Fire hydrants shall be located in accordance with the Design Guidelines for Subdivision Improvements and 30 T.A.C. 290, Subchapter D, "Rules and Regulations for Public Water Systems", or successor and shall be approved by the applicable fire protection unit. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves and all other supply improvements, shall be installed before any final paving of a street shown on the subdivision plat. Reflective fire hydrant buttons shall be installed in all streets at a point adjacent to fire hydrants. The buttons shall conform to the Fire Department specifications. At corner locations, buttons shall be installed in both streets.

d. Public and Private Utilities

1. Easements -

(a) The property owner shall be required to furnish all easements and rights-of-way required to serve the development. Where reasonable, utilities should be located within streets or alley rights-of-way. Notwithstanding the above, developers may offer easements outside of street and alley rights-of-way. All utility facilities existing and proposed throughout the property shall be shown on the preliminary plat.

(b) Easements shall be provided for both municipal and private utilities and must be recorded on the final plat or replat. Municipal easements for water and sanitary sewer shall be a minimum of ten feet in width. Storm sewer easements shall be a minimum of fifteen feet in width. All municipal easements may be wider as determined by the City Engineer depending on the depth and the size of the utility. Private utility easements must be sized by the utility company. Proper coordination shall be established between the property owner and the applicable utility companies for the establishment of utility easements on adjoining properties.

(c) Water, sewer or drainage easements shall not straddle lots unless approved by the City Engineer.

(d) All water and sewer easements shall be submitted in an acceptable form to the City Engineer.

2. Damage - The contractor and owner shall be responsible for all damage to existing public improvements caused during construction of new public improvements.

3. Underground Utilities – In new residential subdivisions, all utilities, including electrical distribution and communication, shall be installed underground along streets and alleys, unless otherwise approved by the City Engineer. Electrical utility service to non-residential properties from overhead distribution lines shall be placed underground from the right-of-way to the point of service, unless otherwise approved by the City Engineer. Developers are encouraged to install all utilities underground on each property in new subdivisions.

e. The Following Design Standards and Specifications Are Incorporated by Reference Into This Ordinance.

Design Guidelines for Subdivision Improvements
Standard Construction Details
Texas Department of Transportation Standard Specifications for Construction of Highways,
Streets and Bridges, or successor
Storm Drainage Design Standards
Master Water Plan
Master Sewer Plan
30 T.A.C. 285“On Site Sewage Facilities”, or successor
30 T.A.C. 290, Subchapter D,“Rules and Regulations for Public Water Systems, or successor
30 T.A.C. 317“Design Criteria for Sewer Systems”, or successor

Section 10-44. Construction & Inspection Procedures.

a. A permit is required from the City Engineer prior to beginning any work in the City regulated by 30 T.A.C. 317“Design Criteria for Sewer Systems”, or successor.

b. Preconstruction Conference - The City Engineer may require that all contractors participating in the construction meet for a preconstruction conference to discuss the project prior to release of a grading permit and before any filling or removal of vegetation and trees.

c. Conditions Prior to Authorization - Prior to authorizing release of a grading permit, the City Engineer shall be satisfied that the following conditions have been met:

1. The preliminary plat has been approved by the Commission.

2. All required documents shall be completed and filed with the City Engineer.

3. All necessary off-site easements or dedications required for City maintained facilities and not shown on the final plat must be conveyed solely to the City with proper signatures affixed. The original of the documents, and filing fees shall be returned to the City Engineer prior to approval and release of the engineering plans.

4. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer. These plans shall remain on the job site at all times.

5. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City Engineer.

6. All other applicable fees must be paid to City.

7. *Quality control testing*: It will be the responsibility of the developer to reimburse the City of Bullard for quality control inspection and testing. Inspection and testing costs shall consist of time incurred for a construction inspector, and applicable geotechnical tests to insure the infrastructure improvements meet the City of Bullard's construction specifications. These costs shall be reimbursed prior to final acceptance of the improvements. Items that will be inspected include, but are not limited to: clearing, excavation, embankment, sub-grade preparation, base, surfacing, curb and gutter, valley gutters, retaining walls, water and sanitary sewer improvements, under-drains and storm sewer facilities.

d. Inspection Procedure - Construction inspection shall be supervised by the City Engineer. Construction shall be in accordance with the approved Construction Plans, Standard Specifications and Standard Details. Any change in design required during construction should be made by the engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans and if those revisions are noted on the plans or documents. All revisions are subject to approval of the City Engineer. If the City Engineer finds upon inspection that any of the required public improvements have not been constructed in accordance with the City's construction standards and specifications, the property owner shall be responsible for completing and/or correcting the public improvements.

e. Certificate of Satisfactory Completion – The City will not accept dedication of required public improvements until the developer has provided “record drawings” of the improvements in accordance with the Design Guidelines for Subdivision Improvements.

Acceptance of the development shall mean that the developer has transferred all rights to the public improvements to the City for use and maintenance. Upon acceptance of the required public improvements, the City Engineer shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

Section 10-45. Improvements and Subdivision Improvement Agreement

a. Completion of Improvements - Except as provided below, before the issuance of any building permit all applicants shall be required to complete, in accordance with the City's decision and to the satisfaction of the City Engineer, all the street, sanitary, and other public improvements, as well as lot improvements on the individual residential lots of the subdivision or addition as required in these regulations, specified in the final plat, and as approved by the Commission, and to dedicate those public improvements to the City. As used in this Section, "lot improvements" refers to grading and installation of improvements required for proper drainage and prevention of soil erosion.

b. Improvement Agreement and Guarantee -

1. Agreement - The City Engineer may waive the requirement that the applicant complete and dedicate all public improvements and may permit the developer to enter into an improvement agreement by which developer covenants to complete all required public improvements no later than two (2) years following the date on which the final plat is signed. The Commission may also require the developer to complete and dedicate some required public improvements prior to final acceptance and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the developer and the City.

2. Improvement Agreement Required for Oversize Reimbursement - The City shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the City for oversize costs as provided in City Code Chapter 19 for water and sewer improvements and Section 10-46 for all other improvements. The City Council may authorize the approval of such agreement as meeting the City requirements, and the City shall not withhold approval as a means of avoiding compensation due under the terms of this ordinance.

3. Security - Whenever the City permits a developer to enter into an improvement agreement, it shall require the developer to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a letter of credit or other security acceptable to the City Attorney, as security for the promises contained in the improvement agreement. In addition to all other security, for completion of those public improvements where the City participates in the cost, the developer shall provide a performance bond from the contractor, with the City as a co-obligee. Security shall be in an amount equal to one hundred percent (100%) of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to approval of the City Attorney.

4. Letter of Credit - If the Commission authorizes the developer to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:

(a) Be irrevocable.

(b) Be for a term sufficient to cover the completion, maintenance and warranty periods but in no event less than two (2) years.

(c) Require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit.

5. As portions of the public improvements are completed in accordance with the Standard Specifications and the engineering plans, the developer may make application to the City Engineer or designee to reduce the amount of the original letter of credit. If the City Engineer or designee is satisfied that such portion of the improvements has been completed in accordance with City standards, City Engineer may (but is not required to) cause the amount of the letter of credit to be reduced by such amount deemed appropriate, so that the remaining amount of the letter of credit adequately insures the completion of the remaining public improvements.

6. Upon the dedication of and acceptance by the City of all required public improvements, the City shall authorize a reduction in the security to 10% of the original amount of the security if the developer is not in breach of the improvement agreement. The remaining security shall be security for the developer's covenant to maintain the required public improvements and the warrant that the improvements are free from defect for one year thereafter. If the required security for maintenance and warranty is provided by the contractors or by others, the City will release the entire amount of the developer security.

c. Temporary Improvements - The developer shall build and pay for all costs of temporary improvements required by the City Engineer and shall maintain those temporary improvements for the period specified by the Commission. Prior to construction of any temporary facility or improvement, the developer shall file with the City a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

d. Failure to Complete Improvements - For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed, no building permits shall be issued.

In those cases where an improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the City may:

1. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
2. Obtain funds under the security and complete the public improvements itself or through a third party;
3. Assign its right to receive funds under the security to any third party, including a subsequent developer of the subdivision or addition for which public improvements were not constructed, in whole or in part, in exchange for that subsequent developer's promise to complete the public improvements on the tract;
4. Exercise any other rights available under the law.

e. Maintenance and Guarantee of Public Improvements - The developer shall maintain all required street, utility, and drainage improvements for a period of one (1) year following the acceptance by the City and shall provide a warranty that all public improvements will be free from defect for a period of one (1) year following such acceptance by the City.

Section 10-46. Participation and Escrow Policies

a. Developer's Responsibility -

1. The developer shall be responsible for the entire costs of designing and installing all public improvements which primarily serve the subdivision or addition. Facilities required by these regulations shall be considered as primarily serving the subdivision or addition unless otherwise determined by the City.
2. The developer shall also be responsible for its share of the costs of oversized or off-site public improvements needed to assure adequacy of public facilities and services for the addition or subdivision, subject to participation and escrow policies contained in this article.
3. The developer shall be responsible for extending streets or drainage facilities off-site to its property as required by the Commission and/or required to ensure adequacy of public facilities.
4. Water and sewer facilities shall be extended by the developer in accordance with City Code Chapter 19.

b. Facilities Eligible for City Participation - The City may participate in the costs of installing public improvements according to the following schedule:

1. Water and sewer utilities. Funding of water and sewer utility improvements will be in accordance with City Code Chapter 19.
2. Drainage. The developer shall bear the full cost of all drainage structures including inlets, culverts, storm sewers, manholes, and subdrains required to carry storm drainage or groundwater on or across the property of its origin. City may, at its option, participate in the cost of drainage improvements. Participation must be approved individually on the merits of the work and the availability of funds by City Council. City Code Section 10-108 governs the City's participation in controlling flooding and erosion with creeks and drainage courses.

3. Paving. The cost of clearing, excavation to a depth of one (1) foot, subgrade stabilization, installing curb and gutter, and paving shall be the sole responsibility of developer for standard width streets as set forth in Section 10-40. If funds are available, City shall pay for clearing, paving, subgrade stabilization, excavation to a depth of one (1) foot, and drainage structures in excess of thirty-two (32) feet between the face of curbs in single family residential zoned property, and in excess of forty (40) feet between the face of curbs in property zoned other than single family residential, if such extra width is required by City, and upon approval by City Council prior to beginning any construction on said street(s). Where the proposed subdivision is adjacent to both sides of an existing substandard street or road, said street or road being substandard according to City of Bullard's Standard Specifications, the developer shall be required to improve the existing street or road to bring same to City standards, or to replace it with a standard City street or road, at no cost to City, other than as set out in the cost-sharing policy of the City in effect at the time of approval of the final plat. Where the proposed subdivision is adjacent to only one side of a substandard street or road, and/or where, in City's judgment, it is not feasible to reconstruct said substandard street or road at the time of development of said subdivision, City may permit developer to provide to City an irrevocable letter of credit for an amount of money equal to developer's share of the cost of said improvements which shall be determined by City Engineer, as a condition precedent to approval of said final plat of said subdivision, and then, to replace the letter of credit, pay into escrow this amount of money as a condition precedent to acceptance of the public street or road.

c. Escrow Policies and Procedures

1. Deposit with City - Whenever the City agrees to accept escrow deposits in lieu of construction by the developer of the property under these regulations, the developer shall deposit an amount equal to his share of the costs of design and construction in escrow with the City. Such amount shall be paid prior to release of construction plans by the City Engineer. In lieu of such payment at such time, the City may permit the developer to contract with the City and shall agree in such contract that no building permit shall be issued for any lot included within said plat, or increment thereof, until the full amount of the escrow is paid, or a pro rata part thereof for the full increment if developed incrementally. The obligations and responsibilities of the developer shall become those of developer's transferees, successors and assigns; and the liability, therefore, shall be joint and several.

2. Determination of Escrow Amount - The amount of the escrow shall be determined by using the average of the comparable bids awarded by the City in the preceding six (6) months or, if none exist, then in the preceding year or, if none exists, current market value of construction as determined by an estimate by the City Engineer. Such determination shall be made as of the time the escrow is due here under.

3. Termination of Escrow - Escrows which have been placed with the City under this section which have been held for a period of ten (10) years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall upon written request be returned to the developer, with accrued interest. Such return does not remove any obligations of the developer for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.

4. Refund - If any street or highway for which escrow is deposited for is constructed, or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the developer after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another governmental authority, the difference between the developer's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

5. Interest Limitation - If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued, calculated at 1% less than the rate of actual earnings.

d. Payment of Fees, Charges, and Assessments - As a condition of plat approval, the developer shall pay all fees, charges and assessments required to assure adequacy of public facilities to the subdivision or addition, as may be imposed under these or other regulations of the City.

Section 10-47. Extraterritorial Jurisdiction Development standards.

a. The City and extraterritorial jurisdiction thereof is hereby Extraterritorial Jurisdiction Exhibit "A" which is made a part of this ordinance. It is available for review in the City Hall.

b. Standards for improvements:

1. Within the Extraterritorial Jurisdiction, all provisions of Sections 10-40 - 10-42 shall be required.

2. If a portion of a subdivision lies within Extraterritorial Jurisdiction and a portion lies outside of the Extraterritorial Jurisdiction then all provisions of Sections 10-40 - 10-42 shall be required.

Section 10-48. Variances and Appeals

a. The Commission may authorize a variance from regulations in this Division.

b. A variance will not be granted unless undue hardship will result from requiring strict compliance. In granting a variance, the Commission shall prescribe only conditions deemed necessary or desirable to the public health, safety, and welfare. A variance shall not be granted unless there exists a special circumstance or unique condition affecting the land involved so that strict application of the provisions of this ordinance would deprive the landowner of a substantial property right or a reasonable use of the land, and the variance would not be detrimental to the public health, safety, and welfare, nor would be injurious to other property in the area.

c. Financial hardship alone is not sufficient to show "undue hardship." Therefore, a variance shall not be granted solely because nonconformance is more profitable to the developer.

d. All matters pertaining to the interpretation or enforcement of this ordinance, including the definition of a word as it relates to this ordinance, shall be referred to the City Engineer for decision. The decision of the City Engineer may be appealed to the Commission upon written notice by any party.

e. Commission decisions, including granting of variances, may be appealed to the City Council upon written notice by any party.

f. Written notice of appeal shall be filed with the office of the City Manager not later than twenty-one (21) calendar days from the date of subject decision so that the item may be placed on the agenda for the next available Commission or City Council meeting as the case may be and the affected parties notified of the appeal.

g. There shall be no major differences in the interpretation of the subdivision ordinance for development within the City limits and development in the extraterritorial jurisdiction.

Section 10-49. Gated Development Regulations

a. Purpose. To set forth a standard set of regulations which will facilitate sound long range planning and ensure that no threat to the health, safety, and welfare of residents within gated developments will occur as a result of the utilization of restricted access features installed for added privacy.

b. This section shall not apply to individual property owners who install restricted access devices for individual lots.

c. Required Zones for Gated Developments: Gated Developments are restricted to the following zoning districts:

PUR Planned Unit Residential District
PMF Planned Multi-Family District
R-TH Residential Townhouse District
R-3 Residential District
R-4 Residential District
POD Planned Office District
PCD Planned Commercial District

d. System Requirements.

1 Each entrance to a gated development shall have a Knox Key Operated Dual Switch (KS-2DPDC), which shall meet the following requirements:

- (a) Must have a switch designated for FIRE and POLICE.
- (b) Each switch shall allow for emergency override of any electrical devices.
- (c) Red in color.
- (d) Each box shall be at least 5 inches high, 5 inches wide, and 1-1/2 inches deep.
- (e) Switches shall be located to be easily accessible and visible to service providers.

Locations of switches are subject to approval at the time of building permit by all affected City departments.

2. A 24-hour number which can be called by any other utility or service provider to gain access into the development shall be displayed and clearly visible.

3. Provisions for mail carrier access shall be as required by the U.S. Postal Service.

e. Installation and Operation Requirements.

1. Building permits shall be required for installation of restricted access devices.

2. The switches shall have a normal and an emergency position. When installed, the contractor shall wire this switch so that all gates open and remain open for emergency access until the switch is returned to the normal position.

3. A minimum of one set of gates shall be installed so that they either open automatically or are readily manually operable from the approach side in the event of power failure.

4. The operator of any development subject to these regulations shall immediately notify the Fire and Police Departments of any changes.

f. Maintenance.

1. The mechanical components of the restricted access device shall be serviced on a regular basis and maintained in an approved operating condition.

2. The electrical components of the restricted access device shall be maintained in an approved operating condition.

3 A power supply shall be maintained to electronic components of the restricted access device at all times.

g. Performance test required.

1. A performance test shall be conducted annually by the Fire and Police Departments to verify proper operation of equipment.

2. Upon failure of the performance test, the gates shall be disabled and maintained in the open position until repaired and re-tested.

h. Compliance. All existing gated and restricted access developments subject to these requirements shall be in full compliance with this section.

Sections 10-50 - 10-59 Reserved.

DIVISION B. MASTER STREET PLAN

Section 10-60. Comprehensive Plan

a. A Comprehensive Plan is hereby adopted. A copy is available in the City Manager's or City Clerk's Office. The City Manager is responsible for a public reevaluation and City Council re-adoption of this Plan every three years. The Plan is intended to be a flexible document based on ever changing development trends and patterns. Specifically no formal applications for those uses determined to be in consistent with land use maps are required.

b. The section of the Comprehensive Plan relating to annexation is not the Annexation Plan referred to in state law. That Annexation Plan will be considered and approved by the City Council separately as part of Article I "Annexation" of this Code.

Section 10-61. Master Street Plan

a. Purpose. The latest Master Street Plan adopted by the City Council establishes arterial streets and to serve as a guide for future collector street development in Bullard. The purpose of this plan is to provide for orderly improvement and expansion of the roadway system at minimum cost as the need for improvements arises. The plan delineates the street network estimated to be needed in the future for the Bullard urban area and its extraterritorial jurisdiction. A copy of the Master Street Plan is on file and available for public review in the City Manager's Office and City Clerk's Office.

b. Map. A map labeled "Master Street Plan" and a report are hereby adopted as the City's street plan for the areas within the City limits, including both inside and outside Loop 323, and within the City's extraterritorial jurisdiction. The City Council will use the report as a guide to assist with future City ordinance amendments, such as the Subdivision Ordinance. A copy of the map and the report are on file and available for public review in the City Manager's Office and City Clerk's Office.

c. Appeals. Any person that desires to develop a street in a manner inconsistent with the requirements in the Master Street Plan, Maps or report described above shall file a written request along with the reasons therefore and a one hundred dollar (\$100.00) filing fee with the City Manager's Office. The appeal or requested change will then be placed on a Planning and Zoning Commission agenda. The Planning and Zoning Commission shall conduct a public hearing and shall then make a recommendation to the City Council. The City Council shall make a final determination concerning the appeal and requested change and shall decide if the Master Street Plan, report or Maps will be followed or amended.

Sections 10-62 through 10-79 Reserved.

DIVISION C. LANDSCAPE AND TREE PRESERVATION

Section 10-80. Purpose and Intent.

a. The purpose of this Ordinance is to enhance the beautification of the City, preserve and protect the City's identity and natural environment. This Ordinance is enacted to improve the appearance and character of certain setback and yard areas, including off-street vehicular parking and open lot sales and service areas within the City. Further, the purpose of this Ordinance is to protect and preserve the appearance and character of the surrounding neighborhoods, and therefore promote the general public safety and welfare by providing for the installation and maintenance of landscaping and screening. This Ordinance is intended to assure that reasonable provisions will be made for such matters as sound and sight buffers, preservation of scenic views and those elements of site design which may have substantial effects on adjoining land uses.

b. This Ordinance establishes the procedure, regulations and standards whereby landscape plans and tree preservation measures will be reviewed by the City for compliance with this Ordinance, and specifies the submittal and content requirements for such landscape plans.

c. It is also the purpose of this ordinance to:

1. Prohibit the indiscriminate clearing of non-residential property.
2. Further the preservation of mature trees and natural areas.
3. Protect trees during construction.
4. Facilitate site design and construction, which contribute to the long-term viability of existing trees.
5. Control the removal of trees when such removal is necessary.
6. Protect and increase the value of properties within the City.
7. Maintain and enhance a positive image for the attraction of new business enterprises to the City.
8. Protect healthy quality trees and promote the natural ecological, environmental, and aesthetic qualities of the City.

Section 10-81. Jurisdiction and Applicability.

a. The landscape requirements in this Ordinance shall apply to all land within the City limits, as now or hereafter set, in all zoning districts, except for land zoned AG, R-1A, R-1B, R-1C, R-2, R-MH, and C-3. Areas zoned as Planned Office or Commercial Development Districts containing landscaping standards shall be regulated by the more restrictive requirements.

b. Areas zoned, as PUR, PMF, or R-TH, and containing landscaping standards, shall be regulated by the requirements set forth in the Final Site Development Plan.

c. The landscape requirements shall apply to all private and institutional developments. The landscape requirements shall also apply to developments on City property, but shall not apply to property owned by other governmental entities or taxing entities. However, voluntary compliance is encouraged. Such landscape requirements shall become applicable to each individual lot at such time as an application for a Building Permit on such lot is made. All landscape requirements of this Ordinance shall continue after the Building Permit is issued to any owner or subsequent owner.

d. The tree preservation requirements in Sections 10-84.a., 10-85.b.4, 10-85.d., 10-85.e., and 10-85.f. shall apply to all land within the City limits, as now or hereafter set, in all zoning districts, except for:

1. Single-Family/Two Family Residential: The restrictions in this Ordinance regarding clearing of land without a building permit shall apply to all land within the City Limits, as now or hereafter set, in all zoning districts, except for land zoned R-1A, R-1B, R-1C, R-2, and R-MH.

2. Existing Right-of-Way and Public Easements: All construction and maintenance activity within public right-of-way or easements shall be exempt from the requirements for tree protection and replacement specified herein.

3. Franchise and Other Utility Companies: All utility company projects shall be exempt from the requirements for tree protection and replacement specified herein when clearing public easements and existing right-of-way.

4. Public Tree Care: The City shall have the right to plant, prune, and maintain trees, street trees and park trees within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

5. Areas zoned as Planned Office or Commercial Development Districts containing landscaping standards shall be regulated by the more restrictive requirements.

6. Areas zoned, as PUR, PMF, or R-TH, and containing landscaping standards, shall be regulated by the requirements set forth in the Final Site Development Plan.

7. The tree preservation requirements of this Ordinance shall apply to all private and institutional developments. The tree preservation requirements shall also apply to developments on City property, but shall not apply to property owned by other governmental entities or taxing entities. However, voluntary compliance with these tree preservation requirements is encouraged.

Section 10-82. Compliance.

a. All required landscaping and screening shall be installed as part of the project construction. All tree planting and plant screening required by this Ordinance must be installed prior to the issuance of a Certificate of Occupancy, where required, or prior to the commencement of use. This requirement is intended to assure compliance with the landscape requirements of this Ordinance and the adherence to a specific landscape plan approved by the City prior to the issuance of a Building Permit.

b. All landscaping shall be installed in a sound manner and in accordance with accepted good planting procedures; all elements of landscaping shall be installed so as to meet all other applicable City ordinances and policies. Landscape areas, both those proposed and those to be retained shall be protected from vehicular encroachment during and after the construction phase by appropriate barriers. All landscape requirements of this Ordinance shall continue after the Building Permit is issued to any owner or subsequent owner.

Section 10-83. Definitions.

In the event of a dispute, the City Engineer, or designee, shall have the authority to interpret the definition of the word as it relates to this Ordinance. As used herein, the following definitions are applicable:

Barricade Area For Existing Trees: A protected area extending in a radius no less than the drip line from every protected tree that prevents intrusion by construction equipment, vehicles and people.

Barrier: A device or treatment, which controls the management, circulation, separation, or direction of traffic. Such treatments include, but are not limited to, wheel stops, raised islands, dividers or barricades.

Berm: An earthen mound designed to provide visual interest, screening and/or decrease noise.

Buffer: Trees in a land area used to separate visibly and visually, one use from another or to shield or block noise, lights or other nuisances.

Caliper: Diameter of a predominant tree trunk measured six inches (6") above grade for trees four inches (4") in diameter or less. For trees with a larger diameter, the caliper measurement shall be the diameter at breast height (d.b.h.), measured four and one half feet (4.5') above grade.

Canopy Tree: Any self-supporting woody plant with one well-defined trunk and a distinct and definite formed crown, which attains a height of at least thirty feet (30').

Clearing of Land: A property owner, developer, or contractor shall be considered "clearing" land if performing one of the following actions: excavating, grading, regrading, land filling, berming, paving, diking, removing trees, clearing, grubbing, or other earth changes.

Construction: Any activity on the property following a building permit.

Critical Root Zone(CRZ): The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line.

Cut/Fill Areas where the natural ground level has been excavated or fill brought in.

Deciduous: A plant with foliage that sheds annually.

Development: The construction, reconstruction or enlargement of any structure.

Director: The City Engineer or designee.

Drip Line: The area beneath the canopy of a tree defined by a vertical line extending from the outermost edges of the tree branches to the ground.

Evergreen: A plant with foliage that remains green year-round.

Existing Tree: Any self-supporting woody plant with one well-defined trunk which exists on the lot prior to development.

Grass: Any of numerous grass species that will attain a thick green cover of turf over the available soil area.

Ground Cover: Any woody or herbaceous plant that effectively shades out sod and will not generally reach a height of over two feet (2').

Hard Scape Screening: Non-living screening materials such as walls, fences and baffles.

Landscaped Area: An area within the boundary of a property which is devoted to and consists of plant material, trees, water forms, planters, brick, stone, aggregate and other features used primarily for landscaping purposes, but not including the use of smooth concrete or asphalt.

Landscape Plan: The Landscape Site Plan or landscape plan information required to be submitted and approved in accordance with Section 10-84c. of this Ordinance.

Landscaping: Changing, rearranging or adding to the original vegetation or scenery of a piece of land. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

Municipal/Public Domain Property: Examples of this would include City Hall, public parks, Corps of Engineers property, State of Texas R. O. W., library, fire stations, water tower sites or similar properties.

Non-Canopy Tree: Any self-supporting woody plant with one or more trunks, which attains a height of at least fifteen feet (15').

Non-Conforming Development: A development which was lawful prior to the adoption of this Ordinance but which fails by reason of such adoption to comply with this Ordinance.

Ornamental Tree: A tree planted primarily for its decorative value or for screening purposes; tends to be smaller at maturity than a canopy tree.

Parkway: The area lying between the right-of-way line of any public street (which is not an alley) and the curb line of the street; or if there is no curb line, the shoulder of the street; or if there is no shoulder or curb, the edge of the pavement of such street.

Plant Materials: Living trees, shrubs, vines, grass, ground covers and flowering annuals, biennials and perennials.

Pre-Development Clearing of Land: The clearing of land before the issuance of a building permit.

Property: The real property included within the boundaries of any lot approved and recorded in the plat records of Smith/Cherokee County, or an unplatted tract or parcel of land as described and recorded in the Real Property Records of Smith/Cherokee County, Texas.

Protected Tree: A tree that has a barrier constructed in such a way that the tree is protected from damage due to construction or from normal vehicular movement.

Protective Fencing: Snow fencing, chain link fence, orange vinyl construction fencing or other similar fencing with a minimum height of four feet (4').

Removal: Uprooting, severing the main trunk of a tree, or any act, which causes or may reasonably be expected to cause a tree to die, including without limitation damage inflicted upon the root system by machinery, storage of materials, or soil compaction.

Saved Tree: An existing tree, which is maintained in a living and growing condition.

Screening: A method of visual shielding or obscuring one abutting or nearby structure or use from another by fencing, walls and berms or densely planted vegetation.

Shrub: A woody perennial plant distinguished from a perennial herb by its persistent, woody stem and from a tree by a mature height of less than fifteen feet (15') and having no distinctive elevated crown of foliage.

Street Yard: The area of a lot which lies between the street right-of-way line and the front, side and/or rear wall building line. See Illustrations 1 thru 6 in Section 10-89.

Tree: Any self-supporting woody perennial plant which will attain a trunk diameter of three inches (3") or more when measured at a point four and one-half feet (4.5') above ground level and normally an overall height of at least twelve feet (12') at maturity, usually with one (1) main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of oaks.

Undisturbed Area: The area of a lot, which maintains the original natural vegetation including trees, shrubs, grasses, groundcover, and plant materials as approved by the City Engineer.

Unprotected Tree: A tree that has no specially constructed protection barriers to prevent damage due to construction or normal vehicular movement.

Vegetated Area: Ground area of a site that is covered by plants, including trees, undergrowth and grasses.

Vegetation: Any type or kind of growing plant material.

Wall Building Line: A line extending along the facade of the building(s), parallel to the property line(s) abutting a street right-of-way line. Such line shall be used to determine the overall area, depth and shape of the street yard. See Illustrations 1 thru 6 in section 10-89.

Weeds or Grasses: Weeds and/or grasses or other uncultivated plants on any premises or right-of-way, which grow in such rank profusion as to harbor reptiles or rodents, or create a fire hazard; and weeds and/or grasses, excluding ornamental grasses, or other uncultivated plants on any premises which are permitted to, or do attain a height greater than eighteen inches (18").

Section 10-84. Requirements.

a. PRE-DEVELOPMENT RESTRICTIONS.

1. A property owner, developer, or contractor shall not begin the clearing of land without a building permit, unless a variance is granted by the City Engineer for one of the reasons listed below.

(a) A variance will be granted for the agricultural timbering of land or pre-development clearing of land with the following restrictions:

(1) A grading permit is obtained from the City Engineer for the control of erosion (Section 10-128) and,

(2) A minimum of five (5) trees, six inch (6") in caliper or greater, per each acre are left undisturbed on the property, as determined by a registered public surveyor, or

(3) A forty foot (40') wide "undisturbed area" is left in place along seventy-five percent (75%) of the street frontage, a twenty-five foot (25') wide "undisturbed area" is left along seventy-five percent (75%) of the rear property line, and a twenty-five foot

(25') wide "undisturbed area" is left along seventy-five percent (75%) of the side property lines. Minimum clean-up of undergrowth areas will be allowed to conform with the existing weed ordinance (Section 18-20). The undisturbed area must contain a minimum of ten (10) trees, six inch (6") caliper or greater, per acre.

(b) If the property owner, developer or contractor determines that the restrictions in Section 10-84a.(1)(a) cannot be met, a variance will be granted for the pre-development clearing of land with the following restrictions:

(1) A grading permit is obtained from the City Engineer for the control of erosion (Section 10-128); and

(2) A grading plan, prepared by a Professional Engineer, is submitted and approved by the City Engineer that demonstrates compelling reasons that the clearing of the land is required for orderly use, development, or marketing of the property. Compelling reasons for clearing of land shall include: health, safety, and welfare of the public, sight distance at intersections and driveways, sidewalk requirements, drainage requirements, Federal Emergency Management Agency (FEMA) requirements, Environmental Protection Agency (EPA) erosion control requirements, utility installations, Americans With Disabilities Act (ADA) requirements, building foundation requirements, slope stability requirements, future requirements or restrictions that may be placed on development by government authority; OR

(3) The property owner agrees to mitigate the clearing of land by paying a **"Tree Removal Mitigation Fee"** to the City, which shall be deposited into a special account designated solely for City of Bullard landscape and tree preservation projects. The fee will be based on the size of the lot and the number of trees with a six-inch (6") caliper or greater left undisturbed, per acre. The calculation of the fee is shown in the following table:

TREE REMOVAL MITIGATION FEE SCHEDULE

Total Acreage	Rate per Tree Removed
Acres	\$
1.0 – 1.9	350
2.0 – 2.9	325
3.0 – 3.9	300
4.0 – 4.9	275
5.0 – 5.9	250
6.0 – 6.9	225
7.0 – 7.9	200
8.0 – 8.9	187.50
9.0 – 9.9	175
10.0 – 10.9	160
11.0 – 11.9	150
12.0 Acres +	150

Goal: Save a minimum of five trees per acre

FORMULA: [# of acres x 5 (total number of trees required to be saved) – total number of trees actually saved] x rate per tree removed (see chart)

Note: No tree fee shall exceed 5% of the most recent year's appraised property value as reported by the Smith County Appraisal District.

b. LANDSCAPE AREA REQUIREMENTS.

1. The landscaping requirements shall be determined by the total square footage of the lot less any areas exempted by phased development or classification as floodway or undisturbed area.

2. The minimum required area of landscaping shall be ten percent (10%) of the total lot area, except for lots zoned for manufacturing. The minimum area of landscaping for lots zoned M-1, M-2 or M-3 shall be two and one-half percent (2½%) of the total lot area. Each existing tree, which is maintained in a

living and growing condition, may be credited towards the required landscaped area according to the following schedule;

Existing Saved Trees Credit

10" – 12" Caliper 150 square feet of Landscaped area
15" or greater Caliper 200 square feet of Landscaped area
Credits shall not exceed 25% of the required landscaped area.

3. Of the required landscape area, a minimum of one (1) tree per 1,250 square feet, or fraction thereof, shall be required. A minimum of one tree shall be required for all development. Trees planted in order to satisfy this requirement shall have a minimum caliper of three inches (3").

(a) Each existing tree which is maintained in a living and growing condition may be credited towards the number of required trees according to the following schedule. A minimum separation of 15 feet is required between trees to be saved and used for credit.

Existing Saved Trees Credit

10"- 12" Caliper	3 Trees
1" or greater Caliper	4 Trees

(b) Areas zoned R-3, R-4, PMF, RPO, and PRPO may plant additional shrubs in lieu of the required trees and will be credited according to the following schedule;

Newly Planted Shrubs	Credit
20 shrubs (Min. 5 gallon)	1 Tree

4. Of the required landscape area, a minimum of one (1) shrub per 100 square feet, or fraction thereof, shall be required. Shrubs planted in order to satisfy this requirement shall be a minimum size of two (2) gallons. Each existing tree or newly planted tree which is maintained in a living and growing condition may be credited towards the required number of shrubs according to the following schedule:

EXISTING SAVED TREES CREDIT

3" – 6" Caliper	4 shrubs
7" – 9" Caliper	6 shrubs
10" – 12" Caliper	8 shrubs
15" or greater Caliper	10 shrubs

Credit in areas zoned R-3, R-4, AR, RPO, or PRPO shall not exceed 50% of the required landscaped area.

5. The required landscape area can be reduced through the following techniques;

(a) Phased Development. Each phase of a phased project shall comply with this Ordinance. Phase lines, if drawn, shall be drawn twenty feet (20') or more from developed site elements (parking, buildings, ponds, etc.). The portion left for subsequent phases shall remain of developable size and quality. No building permit shall be issued for a subsequent phase of a project until all requirements of this Ordinance have been met.

(b) Floodway. On sites where a floodway exists, the floodway area will be subtracted from the total lot area when calculating landscape requirements. Therefore, trees, shrubs or groundcover in this area will not be applicable in meeting the landscaping requirements for the development of the property.

(c) Parkways. Abutting parkways are required to be planted with grass and left unpaved except for sidewalks and driveways

(d) Undisturbed Area: On sites where the City Engineer has determined that undisturbed area exist; the area will be subtracted from the total lot area when calculating landscape requirements. Therefore, trees, shrubs, or groundcover in this area will not be applicable in meeting the landscape requirements for development of the property. No building permit shall be issued for the development within the undisturbed area until all requirements of this ordinance have been met.

c. TREE PRESERVATION AND CARE DURING CONSTRUCTION

1. Each individual tree or shrub may be credited only once.
2. Existing trees to be preserved for landscape credit must be clearly marked.
3. Existing trees to be saved for landscape credit shall have a barricade along the tree's drip line prior to grading and construction.
4. Areas to remain preserved are to be barricaded so that construction practices in the field will protect existing trees from compaction of soil, changes in grades and damage from machines.

d. LANDSCAPE REQUIREMENTS.

1. For a lot abutting one street, a minimum of seventy-five percent (75%) of the landscaping area shall be located in the street yard. The remaining percentage of landscaping shall be reasonably dispersed throughout the lot. The distribution of landscaping may be amended at the discretion of the City Engineer in order to ensure the maximum benefit of the required landscaping.
2. For a corner lot, a minimum of ninety percent (90%) of the landscaping area shall be located in the street yard. The remaining percentage of landscaping must be reasonably dispersed throughout the lot. The distribution of landscaping may be amended at the discretion of the City Engineer in order to ensure the maximum benefit of the required landscaping.
3. For a lot abutting three or more streets, landscaping shall be reasonably dispersed so that each street yard has some landscaping.
4. All existing undergrowth in a protected area shall remain until construction is complete and may be removed at that time by hand clearing only.
5. Any surface of the street yard not occupied by trees, shrubs, planting beds, signs or other permitted fixtures shall be planted with sod or other suitable groundcover.
6. Every development shall be required to have either an irrigation system or a hose connection. The hose connection shall be within one hundred fifty feet (150') of all landscaping. A ten percent (10%) reduction in the required landscape area shall be made when an irrigation system is provided for the entire landscaped area.
7. Trash dumpsters and other similar refuse containers are required to be located in visually screened areas. At a minimum, screening shall employ a six feet (6') high, solid fence, and/or landscape material sufficient to screen the dumpster from public view or that of nearby single or two-family residential developments.

8. Where parking areas abut residentially zoned property, and the parking area is not screened from view by a wall, berm or other screen, a continuous screen of shrubs (minimum five (5) gallons in size) must be placed adjacent to the parking area. The shrubs should create a minimum three-foot tall screen in two (2) years. Drought and freeze-resistant shrubs shall be used; e.g., Photinia, dwarf Burford Holly, dwarf Chinese Holly or dwarf Yaupon Holly. Other plants may be used with the approval of the City Manager.

9. Landscaping islands are required in parking lots in excess of 50,000 square feet at both ends of each row of ten (10) or more parking spaces. Each separate landscaped area shall contain a minimum of fifty (50) square feet; shall have a minimum dimension of at least five feet (5'); and shall include at least one tree. The remaining area shall be landscaping material not to exceed three feet (3') in height.

e. LANDSCAPE PLAN REQUIREMENTS.

A landscape plan shall be required and submitted upon application for a Building Permit. The landscape plan may be a separate site plan, or when feasible, the landscape plan information may be included on the building site plan. It is recommended that landscape plans be prepared by a professional landscape architect or landscape contractor. The landscape plan shall include:

1. The location of existing boundary lines and dimensions of the lot.
2. The location of existing and proposed utility easements on or adjacent to the lot and the location of overhead power lines and any underground utilities.
3. A plant schedule listing the name and size of all plant materials. Botanical nomenclature as well as common names shall be listed. All canopy trees shall be identified as containerized or balled and burlapped.
4. The location, size and type of vegetation of new and existing plant materials to be planted or retained in the proposed landscaped areas.
5. An indication of how the developer plans to barricade existing trees, which are to be retained, in order to prevent damage to the trees during construction. The location and size of the barricade(s) shall be indicated.
6. The location of the proposed water faucet(s) or a note indicating the installation of the irrigation system covering the entire lot.
7. The location of existing development, adjacent land uses, and roadways.
8. Information necessary for verifying whether the minimum required landscaping area has been met under Section 10-84.
9. A statement indicating the total square footage of landscaping area required, including the number of trees and shrubs required, for the proposed development to be in compliance with this Ordinance, and a calculation to verify that the number, size and type of vegetation listed on the plant schedule shall render the proposed development to be in compliance with this Ordinance.

f. PLAN REVISIONS.

Minor revisions to landscape plans are acceptable if there is no reduction in the quality of plant material or no significant change in size or location of plant materials, and if the new plants are of the same general category (i.e., shade, ornamental, or evergreen trees) and have the same general characteristics (mature height, crown spread)

as the materials being replaced. Proposed materials must also be compatible with the area to ensure healthy plant growth. If these criteria are not fulfilled, changes to approved plans must be resubmitted and reviewed for approval.

Section 10-85. Standards and Specifications.

a. TREE PLANTING RESTRICTIONS:

1. Overhead Lines: Any required replacement trees shall not be planted within an area such that the mature canopy of the tree will interfere with overhead utility lines.

2. Underground Utilities: Any required replacement trees or street trees shall not be planted within an area such that the mature root zone of the tree will interfere with underground public utility lines (including water lines, sewer lines, transmission lines or other utilities). No trees shall be planted within ten feet (10') of a fire hydrant.

3. Street Corners: No street tree shall be planted closer than thirty-five feet (35') of any street corner, measured from the point of nearest intersecting curbs or curblines.

b. PLANT CRITERIA.

1. All plant materials planted in order to satisfy this Ordinance shall be of a species, which will conform to the selection criteria of this Ordinance.

(a) Plant materials shall be either acceptable native plants to the Bullard area, or plants that are known to be acclimated to the East Texas region.

(b) The selection of individual plant materials shall require that the specie chosen be adaptable to the specific environment and conditions in which it will be planted; i.e., soils, water availability, height limitations and shade.

2. Trees and shrubs planted in order to satisfy this Ordinance shall conform to the minimum size specified.

(a) Canopy trees shall have a minimum caliper of three inches (3"); shall have a minimum branching height of six feet (6'); and shall have a minimum overall height of eight feet (8') immediately after planting.

(b) Shrubs shall be a minimum size of two (2) gallons.

3. Trees shall be selected so as to avoid those species known to cause damage to public improvements.

4. Trees selected for planting must be contained on the following approved tree list; or approved by City Manager:

APPROVED TREE LIST

The following is a summary of representative trees for each category.

QUALITY TREES

Common name	Botanical name
American beech	<i>Fagus grandifolia</i>
American elm	<i>Ulmus americana</i>
American holly	<i>Ilex opaca</i>
American sycamore	<i>Platanus occidentalis</i>
baldcypress	<i>Taxodium distichum</i>
bitternut hickory	<i>Carya cordiformis</i>
black cherry	<i>Prunus serotina</i>
black hickory	<i>Carya texana</i>
black locust	<i>Robinia pseudoacacia</i>
black oak	<i>Quercus velutina</i>
black walnut	<i>Juglans nigra</i>
blackgum	<i>Nyssa sylvatica</i>
blackjack oak	<i>Quercus marilandica</i>
blue beech/American hornbeam	<i>Carpinus caroliniana</i>
bluejack oak	<i>Quercus incana</i>
boxelder	<i>Acer negundo</i>
Bradford pear	<i>Pyrus calleryana</i> 'Bradford'
bur oak	<i>Quercus macrocarpa</i>
callery pear	<i>Pyrus calleryana</i>
Carolina basswood	<i>Tilia americana</i> (caroliniana)
Carolina buckthorn	<i>Frangula caroliniana</i>
catalpa	<i>Catalpa bignonioides</i>
cedar elm	<i>Ulmus crassifolia</i>
cherry laurel	<i>Prunus caroliniana</i>
cherrybark oak	<i>Quercus falcata</i> var. <i>pagodafolia</i>
chinese pistache	<i>Pistachia chinensis</i>
chinquapin oak	<i>Quercus muhlenbergii</i>
common hoptree	<i>Ptelea trifoliata</i>
common persimmon	<i>Diospyros virginiana</i>
crapemyrtle	<i>Lagerstroemia indica</i>
Eastern cottonwood	<i>Populus deltoides</i>
eastern hophornbeam	<i>Ostrya virginiana</i>
eastern red cedar	<i>Juniperus virginianum</i>
Eastern redbud	<i>Cercis canadensis</i>
flowering dogwood	<i>Cornus florida</i>
fringetree	<i>Chionanthus virginica</i>
golden raintree	<i>Koelerutaria paniculata</i>
green ash	<i>Fraxinus pennsylvanica</i>
gum bumelia	<i>Sideroxylon lanuginosa</i>
hackberry	<i>Celtis occidentalis</i>
Hawthorn	<i>Crataegus</i> (various species)
hercules-club	<i>Zanthoxylum clava-herculis</i>
honeylocust	<i>Gleditsia triacanthos</i>
laurel oak	<i>Quercus hemisphaerica</i>
live oak	<i>Quercus virginiana</i>
loblolly pine	<i>Pinus taeda</i>

MARGINAL TREES

mesquite	<i>Prosopis juliflora</i>
mockernut hickory	<i>Carya alba</i>
nuttall oak	<i>Quercus nuttallii</i>
Ohio buckeye	<i>Aesculus glabra</i>
osage orange	<i>Maclura pomifera</i>

overcup oak	Quercus lyrata
Pawpaw	Asimina triloba
pecan	Carya illinoensis
possumhaw holly	Ilex decidua
post oak	Quercus stellata
red buckeye	Aesculus pavia
red maple	Acer rubrum
red mulberry	Morus rubra
river birch	Betula nigra
rusty blackhaw	Viburnum rufidulum
sassafras	Sassafras albidum
shagbark hickory	Carya ovata
shortleaf pine	Pinus echinata
Shumard oak	Quercus shumardii
silver maple	Acer saccharum
slash pine	Pinus elliotii
slippery elm	Ulmus rubra
southern magnolia	Magnolia grandiflora
southern red oak	Quercus falcata
southern sugar maple	Acer barbatum
sugar maple	Acer saccharum
sugarberry	Celtis laevigata
swamp chestnut oak	Quercus michauxii
sweetgum	Liquidambar styraciflua
Texas buckeye	Aesculus arguta
tree sparkleberry	Vaccinium arboreum

UNDERSTORY TREES

water hickory	Carya aquatica
water oak	Quercus nigra
wax myrtle	Myrica cerifera
white ash	Fraxinus americana
white oak	Quercus alba
willow oak	Quercus phellos
winged elm	Ulmus alata
yaupon holly	Ilex vomitoria
yellow poplar	Liriodendron tulipifera

5. Artificial plants are not acceptable in satisfying this Ordinance.

c. PLANTING REQUIREMENTS.

1. A professional horticulturist/nurseryman should be consulted to determine the proper time to move and install plant material so that stress to the plant is minimized. Planting of all material may be continued during winter months provided the plant material is not subject to severe freezing. In the event weather conditions are not suitable for planting, with the approval of the City Manager, and prior to issuance of a Certificate of Occupancy, an irrevocable letter of credit assigned to the City shall be provided to cover the cost of postponed planting.

2. The owner or contractor shall furnish and install and/or dig, ball, burlap, and transplant all plant materials listed on the plant schedule.

3. Trees shall not be planted so near to sewers, sidewalks, or other public improvements as to cause damage to such improvements.

4. Sight clearance on all sites shall comply with Section 18-2 of this code.

5. The owner or contractor shall excavate all plant pits, vine pits, hedge trenches and shrub beds as follows:

(a) All pits shall be generally circular in outline, with vertical sides. The tree pit shall be deep enough to allow one-eighth (1/8) of the ball to be above the existing grade. Plants shall rest on undisturbed existing soil or well-compacted backfill. The tree pit must be a minimum of nine inches (9") larger on every side than the ball of the tree.

(b) If areas are designated as shrub beds or hedge trenches, they shall be cultivated to at least eighteen inches (18") in depth. Areas designated for ground covers and vines shall be cultivated to at least twelve inches (12") in depth.

6. Each tree, shrub or vine shall be pruned in an appropriate manner, in accordance with accepted standard practice. Broken or bruised branches shall be removed with clean cuts made on an angle from the bark ridge to the branch collar, no flush cuts, to minimize the area cut. All cuts shall be made with sharp tools. Trim all edges smooth.

7. All trenches and shrub beds shall be edged and cultivated to the lines shown on the drawing. The area around isolated plants shall be edged and cultivated to the full diameter of the pit. Sod that has been removed and stacked shall be used to trim the edges of all excavated areas to the neat lines of the plant pit saucers, the edges of shrub areas, hedge trenches and vine pockets.

8. After cultivation, all plant materials shall be mulched with approved material over the entire area of the bed or saucer according to generally accepted landscape practices.

d. PRE-CONSTRUCTION STANDARDS

1. Tree Flagging: All saved trees on the subject property within forty feet (40') of a construction area or surface improvements such as driveway, walks, etc. shall be flagged with bright fluorescent orange vinyl tape wrapped around the main trunk at a height of four feet (4') or more such that the tape is very visible to workers operating construction equipment. This shall not include the flagging of all protected trees adjacent to right-of-way within approved residential subdivisions during the construction of the roadway.

2. Open Space Flagging: All trees or groups of trees within areas intended to be saved as open space shall be enclosed with fluorescent orange tape along all areas of possible access or intrusion by construction equipment. Tape shall be supported at a maximum of twenty-five feet (25') intervals by wrapping trees or other approved methods. Single incident access for the purposes of clearing underbrush is allowed.

3. Protective Fencing: In those situations where a saved tree is so close to the construction area that construction equipment might infringe on the root system or is within twenty feet (20') of the construction area, a protective fencing shall be required between the outer limits of the critical root zone of the tree and the construction activity area. Four foot (4') high protective fencing shall be supported at a maximum of ten foot (10') intervals by approved methods. All protective fencing shall be in place prior to commencement of any site work and remain in place until all exterior work has been completed.

4. Bark Protection: In situations where a saved tree remains in the immediate area of intended construction, the tree shall be protected by enclosing the entire circumference of the tree with 2" x 4" lumber encircled with wire or other means that do not damage the tree. The intent here is to protect the bark of the tree against incidental contact by large construction equipment.

e. PRESERVATION AND CARE DURING CONSTRUCTION:

1. Each individual tree or shrub may be credited only once.
2. Existing trees to be preserved for landscape credit must be clearly marked.
3. The following activities shall be prohibited within areas to be preserved or the limits of the critical root zone of any tree to be saved for landscape credit:
 - (a) Material Storage. No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree.
 - (b) Equipment Cleaning/Liquid Disposal. No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar or similar materials.
 - (c) Tree Attachments. No signs, wires or other attachments, other than those of a protective nature, shall be attached to any protected tree. Fencing attached to a tree via "U" nails or bent nails when only at points of tangency with the tree are allowed.
 - (d) Vehicular Traffic. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to signing incident access within the critical root zone for purposes of clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.
 - (e) Grade Changes: No grade changes may be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the Director or if grading is as directed by the City Engineer.
 - (f) Impervious Paving: No paving with asphalt, concrete or other impervious materials in a manner which may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree except as otherwise allowed in this ordinance.
 - (g) A saved tree shall be considered to be preserved only if a minimum of seventy-five percent (75%) of the critical root zone is maintained at undisturbed natural grade and no more than twenty-five percent (25%) of the canopy is removed due to building encroachment.
 - (h) Areas to remain preserved are to be barricaded so that construction practices in the field will protect existing trees from compaction of soil, changes in grades and damage from machines.

f. PERMANENT CONSTRUCTION METHODS:

1. Boring: Boring of utilities under saved trees shall be required in those circumstances where it is not possible to trench around the critical root zone of the saved tree. When required, the length of the bore

shall be the width of the critical root zone at a minimum and shall be a minimum depth of forty-eight inches (48").

2. Grade Change: In the event the grade change within the critical root zone of a protected tree exceeds the limits noted in section 6.2.e herein, the procedures noted in the Design Guidelines shall be required.

3. Trenching: All trenching shall be designed to avoid trenching across the critical root zone of any saved tree. Although this subsection is not intended to prohibit the placement of underground services such as electric, phone, gas, etc., the placement of these utilities is encouraged to be located outside of the critical root zone of saved trees. Irrigation system trenching shall be placed outside of the critical root zone with only the minimum required single head supply line allowed within that area placed radially to the tree trunk.

4. Root Pruning: All roots two inches (2") or larger in diameter which are exposed as a result of trenching or other excavation shall be cut off square with a sharp medium tooth saw and covered with pruning compound within two (2) hours of initial exposure.

g. MAINTENANCE:

1. The owner, or agent shall be responsible for the maintenance of all landscaping, which shall be maintained in good condition so as to present a healthy, neat and orderly appearance, and shall be kept free from refuse and debris. Any plant that dies should be replaced with another living plant that complies with the approved landscape plan within one hundred-twenty (120) days after death, season permitting.

2. The property owners shall be responsible for replacement of dead landscaping material. Replacement must occur within one hundred-twenty (120) days, season permitting, of notification by the City Manager or designee. Replacement material must be of similar character as the dead landscaping material.

3. The property owner is responsible for any damage or interference with utility lines or other utility facilities resulting from the negligence of the property owner, agents or employees in the installation and maintenance of required landscaping. If a utility crew disturbs a landscaped area in a utility easement, it shall make every reasonable effort to preserve the landscaping materials and return them to their prior locations after the utility work is completed. If nonetheless some plant materials die, it is the obligation of the property owner to replace the dead plant materials.

4. Nothing in this Ordinance shall prohibit or restrict a public utility company from trimming or removing trees or other plant materials that are a hazard to its employees, the public or its facilities, or that threaten to interfere with the provision of continuous service.

Section 10-86. Non-Conforming Developments.

a. CLASSIFICATION OF NON-CONFORMING DEVELOPMENTS; LANDSCAPE REQUIREMENTS. Land developed with a building or structure, which is in lawful use at the effective date of this Ordinance, which was in lawful use as of September 9, 1992, and land, which does not conform to the landscape requirements of this Ordinance, but is subsequently annexed to the City, shall have non-conforming use status with respect to this Ordinance.

b. REGULATION OF NON-CONFORMING DEVELOPMENTS.

1. The lawful use of a building or other development as described in subsection a. above may be continued although such development does not comply with the landscape requirements thereof. However, voluntary compliance with these landscape requirements and landscape enhancement is encouraged.

2. The repair or restoration of a building or other development to its prior condition after being damaged or destroyed by fire, explosion, wind, flood, tornado or other accident or weather phenomena, shall not require that such building or other development comply with the landscape requirements of this Ordinance, provided a building permit for the repair or restoration is obtained within twelve (12) months of the date the damage occurred.

3. The expansion of an existing building, or the construction of one or more additional buildings on the same lot as the existing building, shall not require compliance with the landscape requirements of this Ordinance provided:

(a) That the expansion of the existing building or the construction of the additional building(s) shall not result in the encroachment of any wall building line into an existing street yard; or

(b) Where the expansion of the existing building or construction of any additional building(s) will result in the encroachment of a wall building line into an existing street yard, the gross floor area (g.f.a.) of that portion of the expansion which will extend into the street yard, or the total gross floor area of all buildings to be constructed in the street yard, shall not exceed twenty-five percent (25%) of the gross floor area of the existing building. See Illustration 6.

c. REGULATION OF NON-CONFORMING DEVELOPMENTS; TREE PRESERVATION REQUIREMENTS.

1. Land which is under lawful development at the effective date of the tree preservation requirements in Sections 10-84.a., 10-85.b.4, 10-85.d., 10-85.e., and 10-85.f., or which is under lawful development at the effective date of annexation of such land, shall have non-conforming status with respect to said tree preservation requirements.

2. If a person has begun the process of developing land by obtaining one or more licenses, certificates, permits, approvals or other forms of City authorization prior to the effective date of the tree preservation requirements in Sections 10-84.a., 10-85.b.4, 10-85.d, 10-85.e, and 10-85.f., or by obtaining one or more licenses, certificates, permits, approvals or other forms of City authorization prior to annexation of such land, then said development shall have non-conforming status with respect to said tree preservation requirements.

Section 10-87. Appeals.

a. PROCEDURE.

1. Appeals to the Zoning Board of Adjustment may be taken by any person aggrieved or affected by any decision of the City Manager in the enforcement of this Division. Requested variances from this Ordinance shall be submitted in writing. Such appeal or request for a variance shall be filed with the City Manager, shall specify the grounds thereof, and shall be accompanied by a filing fee of one hundred dollars (\$100.00). The City Manager shall transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.

2. The Board shall consider such appeals in the same manner as other appeals within its jurisdiction. All cases to be heard by the Board will always be heard by a minimum of four (4) members or members and alternates. The concurring votes of four (4) members of the Board or members and alternates

shall be necessary to reverse any decision of any administrative official, to decide in favor of the applicant, or to effect any variation to this Division.

3. The Zoning Board of Adjustment may authorize a variance from this Ordinance when an undue hardship will result from requiring strict compliance. The Board has the responsibility of making the findings herein below required, and shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed development, and the probable effect of such variance upon the public health, safety, convenience and welfare in the vicinity.

b. VARIANCES.

1. No variance may be granted unless the Zoning Board of Adjustment finds:

(a) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land; and

(b) That the variance is necessary for the preservation and enjoyment of substantial property right of the applicant; and

(c) That the variance will not be detrimental to the public health, safety or welfare or be injurious to other property in the area; and

(d) That the lack of landscaping or trees will not be detrimental to adjoining property or the health, safety and welfare of the public; and

(e) That the hardships and difficulties of the landscaping and/or screening and/or tree removal are greater than the benefits derived by the public.

2. Such findings of the Zoning Board of Adjustment together with the specific facts upon which the finding is based, shall be incorporated into the official minutes of the meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Monetary hardship to the developer standing alone, shall not be deemed to constitute undue hardship.

Section 10-88. Violation, Penalty and Enforcement.

a. It is the duty of City Manager to enforce this Ordinance. Appeals from the decision of the City Manager may be made to the Zoning Board of Adjustment, as provided by Section 10-87. Reports of non-compliance with this Ordinance should be directed to the City Manager. The City Manager will accept complaints from the public. Upon receipt of a complaint, he or she will investigate and, if non-compliance exists, will inform the property owner of the violation, giving a reasonable amount of time to comply. Should the owner fail to comply within the time period, the owner shall be subject to a fine as set forth in section 1-4.

b. Notice shall:

1. Be provided in writing;

2. Include a statement of the reason for its issue;

3. Allow a reasonable time for compliance;

4. Be served upon the owner, or agent responsible for property maintenance provided that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any method authorized or required by State law; and

5. Contain an outline of remedial action, which, if taken, will effect compliance with this Division. At the end of such period as noted above, the City Manager shall re-inspect, and if such conditions or practices have not been corrected, further legal action by the City may be instituted. Any person violating any of the requirements of this Division shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine as set forth in Section 1-4.

Section 10-89: Reserved.

DIVISION D. FLOODING AND FLOOD DAMAGE PREVENTION

Section 10-90. Findings of fact.

a. The flood hazard areas of the City are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and welfare.

b. These flood losses are created by cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Section 10-91. Statement of purpose.

It is the purpose of this Article to promote the public health, safety and welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood-control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;
4. Minimize prolonged business interruptions;
5. Minimize negative impact to public streets, storm sewer systems and drainage ways;
6. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
7. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas so as to minimize future flood blight areas; and
8. Insure that information is available to potential buyers concerning property in a designated flood area.

Section 10-92. Methods of reducing flood losses.

In order to accomplish its purposes, this ordinance uses the following methods:

1. Restricts or prohibits uses that are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities;
2. Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controls the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;

4. Controls filling, grading, dredging and other development which may increase flood damage;
5. Prevents or regulates the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Section 10-93. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meanings they have in common usage and to give this ordinance its most reasonable application.

Appeal means a request for a review of the Floodplain Administrator's (City Engineer) interpretation of any provision of this Article or a request for a variance.

Area of shallow flooding means a designated AO, AH or VO Zone on the City's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within the City subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zone A, AE, AH, AO, A1-99, VO, V1-30, VE or V.

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base flood elevation means the water surface elevation of the base flood at a certain location assuming full encroachment onto the floodway fringe at all locations. This is the "with floodway" elevation shown in the flood insurance study.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Bench mark (BM) means a relatively permanent object, natural or artificial, bearing a marked point whose elevation above or below an adopted datum is known or assumed. Common examples are metal disks set in concrete and curbs.

Critical feature means any integral and readily identifiable part of a flood-protection system, without which the flood protection provided by the entire system would be compromised.

Datum means any level surface to which elevations are referred (for example, mean sea level). Also called datum plane, although not actually a plane.

Development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling, or any other activity which alters established drainage patterns or increases the amount of stormwater runoff, including but not limited to:

1. Commencement of drilling, excavating or dredging;
2. Clearing or removal of natural or existing ground cover and/or trees for site preparation for construction, immediate or future;

3. Deposit of refuse, solid or liquid waste or fill;
4. Alteration or improvement of a bed, bank or floodplain of a watercourse;

The following activities do not constitute development:

1. Lawn and yard care, gardening and tree care and maintenance including removal and/or replacement which does not alter established drainage paths;
2. Removal of trees or other vegetation damaged by natural forces;
3. Necessary clearing of vegetation for purposes of surveying or soils investigation;
4. Clearing or plowing of land for agricultural purposes.
5. Repairs to existing utilities.

Development permit means a permit required by the City for any development within the areas of special flood hazard.

Drainage Design Guideline Manual means the current edition of a document(s) containing minimum acceptable methods and practices for planning, design and/or construction of drainage improvements and sediment control.

Drainage easement means a parcel of land or portion thereof dedicated for the passage of stormwater either overland or underground. No fences, alterations, improvements, or structures which hinder or impede the flow of stormwater shall be constructed within such parcels or portions thereof. The City shall have the right to remove any encroachments within drainage easements which, in the opinion of the City Engineer, constitute a hindrance or obstruction to maintenance or the flow of stormwater.

Drainage facilities means all elements necessary to convey stormwater runoff from its initial contact with earth until it leaves the City's Extraterritorial Jurisdiction. The drainage facilities shall consist of both public and private storm sewers (closed conduits), improved and unimproved channels, drainage easements, and all appurtenances to the foregoing, including inlets, manholes, junction boxes, headwalls, dissipators, culverts, catch basins, swales, ditches, floodplains, bridges, flumes, gutters and detention and retention ponds.

Earth change means excavating, grading, clearing vegetation cover, paving, regrading, landfilling, berming or diking of land within the City.

Elevated building means a nonbasement building (i) built, in the case of a Flood Insurance Rate Map Zone AE, A, A99, AO, AH, and X, to have the top of the elevated floor, or in the case of a building in Zones VE or V, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones AE, A, A99, AO, AH, X, "*elevated building*" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-30, VE or V, "*elevated building*," also includes a building otherwise meeting the definition of "*elevated building*," even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of the National Flood Insurance Program Regulations.

Elevation means the vertical distance from a datum, based on the NGVD, to a point or object. If the elevation of point A is 802.46 feet, point A is 802.46 feet above some datum.

Elevation certificate means a form provided by the Federal Emergency Management Agency for certification of flood damage prevention measures.

Existing construction means, for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM. "*Existing construction*" may also be referred to as "*existing structures*."

Flood frequency means the statistically determined rate at which a specific flood level or discharge may be equaled or exceeded.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, on which special flood hazard areas have been designated.

Flood insurance rate map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study means the official report provided in which the Federal Emergency Management Agency has provided flood profiles, as well as the flood hazard boundary-floodway map and the water surface elevations of the base flood.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland waters;
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain Management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain Management Regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood-protection system means those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes channelization, storm sewer systems, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood more than one (1) foot.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior, or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood-protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

Manufactured Housing (mobile homes): Single family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes. (See Mobile Home)

Manufactured homepark or subdivision (mobile home park) means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level (MSL) means the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Mobile Home means a transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. (See Manufactured Housing)

National geodetic vertical datum (NGVD) means the nationwide reference surface for elevations throughout the United States made available by the National Geodetic Survey with the establishment of thousands of bench marks throughout the continent. The NGVD of 1929 is the reference datum for City.

Natural means the state of the cover and topography of land before any manmade changes, or in areas where there have already been manmade modifications, the state of the area and topography of land at the date when the original FIRM was adopted (August 1, 1980).

New construction means construction for which a valid building or development permit has been issued after the date the original FIRM was approved (August 1, 1980) .

Recreational Vehicle means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Review and accept means a phrase that indicates that the City considers the submitted item is in compliance with this ordinance.

Start of construction for other than new construction or substantial improvements under the Federal Coastal Barrier Resources Act (Public Law 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

1. before the improvement or repair is started or,
2. if the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition, "*substantial improvement*" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either

1. any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or

2. any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places or local inventory of historic places.

Unlawful diversion means diversion or impounding the natural flow of surface water in a manner that damages the property of another by the overflow of the water diverted or impounded. An unlawful diversion is prohibited by the Texas Water Code.

Variance is a grant of relief by the Construction Board of Adjustment and Appeals from the requirements of this ordinance when specific enforcement would result in unnecessary hardship as described in Section 10-101. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

Watercourse means any depression, ditch, swale, channel, storm sewer or culvert serving to give direction to a current of stormwater.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Section 10-94. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRMs and FBFMs) and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance.

Section 10-95. Establishment of development permit.

A development permit is required to ensure conformance with this ordinance for the development within special hazard areas.

Section 10-96. Compliance and Development Permit.

No structure or land may be located, altered or have its use changed or earth changes made without full compliance with this ordinance and other applicable regulations.

Section 10-97. Abrogation and greater restrictions; interpretation.

a. This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance conflict or overlap, the more stringent restriction shall prevail.

b. In the interpretation and application of this ordinance, all provisions shall be considered as minimum requirements; liberally construed in favor of the City; and deemed neither to limit nor repeal any other powers granted under State statute.

Section 10-98. Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On occasions, greater floods can and will occur, and flood

heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 10-99. Designation of Floodplain Administrator.

The City Engineer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Section 10-100. Duties and responsibilities of Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

1. Maintaining and holding open for public inspection all records pertaining to this ordinance.
2. Reviewing permit applications to determine whether proposed building sites will be reasonably safe from flooding.
3. Reviewing permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or Local governmental agencies (including the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344) from which prior approval is required.
4. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation based on information supplied by applicant.
5. Notifying, in riverine situations, adjacent communities and the State coordinating agency, currently the Texas Natural Resource Conservation Commission (TNRCC) or successor, prior to any alteration or relocation of a watercourse and submitting evidence of such notification to the Federal Emergency Management Agency.
6. Assuring that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.
7. When base flood elevation data have not been provided in accordance with section 10-94, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source in order to administer the provisions of section 10-103 through 10-108.
8. When regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the City's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

Section 10-101. Development permit procedures.

a. Application for a development permit shall be presented to the Floodplain Administrator on City forms and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alternations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation, in relation to mean sea level, to which any nonresidential structures shall be floodproofed;
3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of section 10-104;
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
5. Maintain a record of all such information in accordance with section 10-100.

b. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on this ordinance and the following relevant factors:

1. Danger to life and property due to flooding or erosion damage;
2. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. Danger that materials may be swept onto other lands to the injury of others;
4. Compatibility of the proposed use with existing and anticipated development;
5. Safety of access to the property in times of flood for ordinary and emergency vehicles;
6. Costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electrical and water systems;
7. Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and effects of wave action, if applicable, expected at the site;
8. Necessity to the facility of a waterfront location where applicable;
9. Relationship of the proposed use to the comprehensive plan for that area.

Section 10-102. Variance procedures.

a. The Construction Board of Adjustment and Appeals (the Board) shall hear and render judgment of requests for variances from the requirements of this ordinance.

b. The Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

c. Any person(s) aggrieved by the decision of the Board may appeal such decision to a court of competent jurisdiction.

d. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

e. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

f. Variances may be issued for new construction and substantial improvements to be erected on a lot on one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 10-101 have been fully considered. As the lot size increases beyond the one-half (½) acre, the technical justification required for issuing the variance increases.

g. Upon consideration of the factors noted above and the intent of this ordinance, the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance (section 10-91).

h. Variances may not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

i. Prerequisites for granting variances:

1. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. Variances may only be issued upon (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing ordinances.

3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

j. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

1. the criteria outlined in section 10-102 are met and

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Section 10-103. General standards for flood hazard reduction.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding;
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Section 10-104. Specific standards.

In all areas of special flood hazards where base flood elevation data have been provided as set forth in section 10-94, section 10-100, or section 10-105, the following are required:

1. Residential construction: New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to one (1) foot above the base flood elevation. A registered professional engineer or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection is satisfied and that the proposed finished floor elevation will be one (1) foot above base flood elevation.
2. Nonresidential construction: New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one (1) foot above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with this subsection. A record of such certification, which includes the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be maintained by the Floodplain Administrator.
3. Enclosures: New construction and substantial improvements with fully enclosed areas below the floor that are subject to flooding shall be designed to equalize automatically the hydrostatic flood forces on exterior walls by allowing for entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two (2) openings, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding, shall be provided.

(b) The bottoms of all openings shall be no higher than one (1) foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit automatic entry and exit of floodwaters.

4. Manufactured homes:

(a) All manufactured homes to be placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(b) All manufactured homes shall be in compliance with section 10-104.

(c) All manufactured homes to be placed or substantially improved within Zones AH and AE on the City's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one (1) foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with section 10-104.

5. Recreational Vehicles.

Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

(a) be on the site for fewer than 180 consecutive days,

(b) be fully licensed and ready for highway use, or

(c) meet the permit requirements of Article 4, Section C(1), and the elevation and anchoring requirements for "manufactured homes" in subsection (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

Section 10-105. Standards for subdivision proposals.

All subdivision proposals, including manufactured home parks and subdivisions, shall:

1. be consistent with this ordinance (sections 10-90, 10-91 and 10-92).

2. meet Development Permit requirements of 10-95, 10-101, and 10-103 through 10-108.

3. include Base flood elevation data if greater than thirty (30) lots or three (3) acres, whichever is lesser, if not otherwise provided pursuant to section 10-94 or 10-100.

4. have adequate drainage provided to reduce exposure to flood hazards.

5. have public utilities and facilities such as sewers, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Section 10-106. Standards for areas of shallow flooding AO/AH Zones.

Located within the areas of special flood hazard established in section 10-94 are areas designed as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet, where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following apply:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
2. All new construction and substantial improvements of nonresidential structures shall:
 - (a) Have the lowest floor (including basement) elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified); or
 - (b) Be designed together with attendant utility and sanitary facilities, so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (c) Have adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures in Zones AH or AO.
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this section, with the information submitted pursuant to section 10-101, are satisfied and that the proposed finished floor elevation is to be at least one (1) foot above the base flood elevation.

Section 10-107. Floodways.

Located within areas of special flood hazard established in section 10-94 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other developments unless certification by a professional registered engineer or architect is provided demonstrating that encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. If subpart 1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of sections 10-103 through 10-108.

Section 10-108. City's participation in controlling flooding and erosion in creeks and drainage courses.

a. The City's participation in controlling flooding and erosion within creeks and drainage courses is hereby established as follows:

1. Creek clearing and cleaning: If the City deems a project practical, economical and in the best interest, the City shall provide the equipment and labor for clearing, dredging and hauling materials such as

brush, trees and other rubbish and debris from the creek bottom. This will be done at no expense to the property owners.

2. Drainage improvement project initiations:

(a) The City, upon petition of a majority of the involved property owners and approval of the project, may survey, design and provide for construction of improvements to the drainage course in accordance with established City criteria.

(b) A work order for construction of improvements may be issued after completion of arrangements for the financing of this project.

(1) Upon agreement by one hundred (100) percent of the involved property owners, completion of the following shall be considered adequate: Execution of mechanic's lien contracts by all participants to secure payment of the property owners' share or payment in advance of all of the property owners' share.

(2) Upon agreement of less than one hundred (100) percent of the property owners, the City Council may, if it deems the project in the public interest, proceed to convene a public hearing and establish assessments in accordance with state law against the property improved by the project.

b. Cost distribution:

1. Contract jobs. A portion of the costs of said improvements will be assessed to abutting property owners on the following basis:

(a) When the creek is on common lot line:

(1) Property owners shall be responsible for payment of a maximum one-third (1/3) of the cost of improvements abutting the property.

(2) The City shall be responsible for the cost of the balance of the contract.

(b) When the creek lies across single property:

(1) If the City determines that said improvements would allow subdivision of the property into two (2) or more lots, each capable of separate development, the property owners shall be responsible for payment of a maximum of two-thirds (2/3) of the cost of improvements.

(2) If the City determines that the improvements serve only to join inaccessible portions to the remainder of the lot, the property owner shall be responsible for a maximum of one-half (1/2) of the cost of improvements.

2. Project in which work is done by City crews. The following are examples of methods of allocating participation in drainage improvements which are constructed in whole or in part by City crews. The following list illustrates common means of sharing participation which result in cost distributions very near that expressed in the policy for contract jobs (see subsection b.1.). It is not intended to preclude other types of participation where special conditions warrant. The City Council will determine on a case-by-case basis whether such allocations of cost or effort are appropriate:

(a) The City provides equipment and labor, while the property owner pays for the concrete necessary to cover the bottom of an improved creek channel.

(b) The property owner pays for and constructs the sidewalls of the channel, while the City provides labor, equipment and pays for materials to be placed in the bottom of the channel.

(c) The City provides equipment and labor for the installation of pipe. The cost of the pipe is charged back to the adjacent property owners.

3. If the property owner wishes to participate in a project in which costs are allocated in accordance with subsection b. 2. above, the following apply:

(a) The property owner shall make written request to the City Engineer for a study prior to securing materials.

(b) Upon approval of the project, the property owner will be notified as to scheduling of work.

(c) Material furnished must be approved by the City Engineer, delivered to the job site, and the City notified of such delivery before the date agreed upon for beginning work. In the event of any delay in the receipt of materials, the City must be notified so that the project may be rescheduled. Failure to supply materials properly or notify the City may result in the project being bypassed or deleted altogether.

4. Unless other financial arrangements are approved by the City Council, the property owners' pro rata cost for improvements may be payable to the City in five (5) successive annual payments, the first being due upon notice by the City of acceptance of the work.

5. A time differential charge of eight (8) percent annual interest on the unpaid balance shall be added to any installment contract pursuant to this ordinance.

c. Easements: No work of any nature shall be performed until written drainage easements, approved by the Legal Department, are granted to the City. When easements are provided at no cost, that contribution may offset the assessments described above.

d. Materials and workmanship: All work shall be in accordance with City plans and specifications.

e. Limitations:

1. It is the intent of this policy to provide relief from flooding, erosion and health hazards beyond the scope of normal homeowner maintenance to developed residential properties.

2. Nothing in this policy shall be construed as authorizing City participation in the development of private property for resale or the improvement of commercial property.

3. The City reserves the right to refuse to participate in any project deemed to be impractical, uneconomical, or otherwise not in the City's best interest.

4. The City reserves the right to establish priorities for rescheduling work to be done.

Sections 10-109 - 10-119 Reserved.

DIVISION E. Erosion and Sedimentation Control

Section 10-120 Findings of fact.

Erosion and Sedimentation Control. When development or construction activities result in earth changes, soil erosion is likely to occur which will result in hazards to health and safety with damage to property under both normal rainfall events and/or heavy rainfall/flooding events, unless erosion and sedimentation control measures are implemented.

Section 10-121. Purpose.

The purpose of this Article is to promote the public health, safety and welfare and to minimize public and private losses due to erosion and sedimentation in all areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly erosion control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at public expense;
4. Minimize negative impacts to adjacent properties due to erosion and sedimentation and prevent water pollution;
5. Minimize prolonged business interruptions;
6. Minimize negative impact to public streets, storm sewer systems and drainage ways;
7. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;
8. Help maintain a stable tax base by providing for the sound use and development of property so as to minimize erosion.

Section 10-122. Methods of reducing erosion and sedimentation losses.

In order to accomplish its purposes, this Article uses the following methods:

1. Restricts or prohibits uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Controls the alteration of natural floodplains, stream channels and natural protective barriers;
3. Controls filling, grading, dredging and other development which may increase erosion damage;
4. Controls earth changes which may cause erosion and/or sedimentation damage.

Section 10-123. Definitions.

Unless specifically defined below, words or phrases used in this Article shall be interpreted to give them the meanings they have in common usage and to give this Article its most reasonable application.

Abbreviated Drainage Plan means a layout of drainage facilities and other elements of a proposed development. Seal and signature of a licensed professional engineer is not required.

Appeal means a request for a review of the interpretation of any provision of this article or a request for a variance.

Area of special flood hazard is the land in the floodplain within the City subject to a one (1) percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Insurance Rate Map (FIRM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zone A, AE, AH, AO, A99, VE or V.

Base flood elevation means the water surface elevation of the base flood at a certain location assuming full encroachment onto the floodway fringe at all locations. This is the “with floodway” elevation shown in the flood insurance study.

Bench mark (BM) means a relatively permanent object, natural or artificial, bearing a marked point whose elevation above or below an adopted datum is known or assumed. Common examples are metal disks set in concrete and curbs.

Certificate of occupancy means a document issued after final inspection by the City for a structure for which a building permit is in effect indicating that the structure is suitable for use and occupancy.

Datum means any level surface to which elevations are referred (for example, mean sea level). Also called datum plane, although not actually a plane.

Detention means the temporary storage and controlled release of stormwater runoff.

Detention facility means a facility that provides temporary storage of stormwater runoff and controlled release of this runoff.

Development means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling, or any other activity which alters established drainage patterns or increases the amount of stormwater runoff, including but not limited to:

1. Commencement of drilling, excavating or dredging;
2. Clearing or removal of natural or existing ground cover and/or trees for speculation or for site preparation for construction, immediate or future;
3. Deposit of refuse, solid or liquid waste or fill;
4. Alteration or improvement of a bed, bank or floodplain of a watercourse;

The following activities do not constitute development:

1. Lawn and yard care, gardening and tree care and maintenance including removal and/or replacement which does not alter established drainage paths;

2. Removal of trees or other vegetation damaged by natural forces;
3. Necessary clearing of vegetation for surveying or soils investigation;
4. Clearing or plowing of land for agricultural purposes.
5. Repairs to existing utilities.
6. Activities associated with routine maintenance of drainage facilities and retention/detention drainage facilities.

Development permit means a permit required by the City for any development within the areas of special flood hazard.

Drainage Design Guideline Manual means the current edition of a document(s) containing minimum acceptable methods and practices for planning, design and/or construction of drainage improvements and sediment control.

Drainage easement means a parcel of land or portion thereof dedicated for passage of stormwater either overland or underground. No fences, alterations, improvements, or structures which hinder or impede the flow of stormwater shall be constructed within such parcels or portions of parcels of land. The City may remove any encroachments within drainage easements which, in the opinion of the administrator, constitute a hindrance or obstruction to maintenance or the flow of stormwater.

Drainage facilities means all elements necessary to convey stormwater runoff from its initial contact with earth until it leaves the City's Extraterritorial Jurisdiction. The drainage facilities shall consist of both public and private storm sewers (closed conduits), improved and unimproved channels, drainage easements, and all appurtenances to the foregoing, including inlets, manholes, junction boxes, headwalls, dissipators, culverts, catch basins, swales, ditches, floodplains, bridges, flumes, gutters and detention and retention ponds.

Earth change means excavating, grading, clearing vegetation cover, paving, regrading, landfilling, berming or diking of land within the City.

Elevation means the vertical distance from a datum, based on the NGVD, to a point or object. If the elevation of point A is 802.46 feet, point A is 802.46 feet above some datum.

Erosion means detachment and movement of soil or rock fragments by water, wind, ice or gravity.

Flood frequency means the statistically determined rate at which a specific flood level or discharge may be equalled or exceeded.

Flood insurance rate map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. Overflow of inland waters;
2. Unusual and rapid accumulation or runoff of surface waters from any source.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood more than one (1) foot.

Floodway fringe means the portion of the area of special flood hazard not occupied by the floodway.

Grading permit means a document required and issued by the City for any earth change activity associated with development within the City.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Mean sea level (MSL) means the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

National geodetic vertical datum (NGVD) means the nationwide reference surface for elevations throughout the United States made available by the National Geodetic Survey with the establishment of thousands of bench marks throughout the continent. The NGVD of 1929 is the reference datum for the City of Bullard.

Natural means the state of cover and topography of land before any manmade changes, or in areas where there have already been manmade modifications, the state of the area and topography of land at the effective date of this ordinance. (May 1, 2006).

New construction means construction for which a valid building or development permit has been issued after the effective date of this ordinance (May 1, 2006) .

Retention means the permanent storage and controlled release of stormwater runoff.

Retention facility means a facility that provides permanent facilities for storage of stormwater runoff.

Review and accept means that the City considers the submitted item is in compliance with this Article.

Sedimentation means deposition of detached soil particles or rock fragments after being transported from their site of origin by runoff water.

Sedimentation facilities shall mean facilities for collection of detached soil particles or rock fragments in a designated area including, but not limited to, land terraces, hay bales, and vegetative ground cover.

Structure means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground.

Unlawful diversion means diversion or impounding the natural flow of surface water in a manner that damages the property of another by overflow of the water diverted or impounded. An unlawful diversion is prohibited by the Texas Water Code.

Variance is a grant of relief by the Construction Board of Adjustment and Appeals from the requirements of this Article when specific enforcement would result in unnecessary hardship as described in Section 10-101. A variance, therefore, permits construction or development in a manner otherwise prohibited by this Article.

Watercourse means any depression, ditch, swale, channel, storm sewer or culvert serving to give direction to a current of stormwater where the drainage area above the same is five (5) acres or more in extent.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. .

Section 10-124. Establishment of development permit.

A development permit shall be required to ensure conformance with the provisions for the development within special hazard areas.

Section 10-125. Compliance and Development Permit.

No structure or land may be located, altered or have its use changed or earth changes made without full compliance with this Article and other applicable regulations.

Section 10-126. Abrogation and greater restrictions; interpretation.

a. This Article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article and another ordinance conflict or overlap, the more stringent restriction shall prevail.

b. In the interpretation and application of this Article, all provisions shall be considered as minimum requirements, liberally construed in favor of the City, and deemed neither to limit nor repeal any other powers granted under State statute.

Section 10-127. Designation of Administrator.

The City Engineer is designated to administer and implement the provisions of this ordinance.

Section 10-128. Grading Permit Required.

Unless specifically exempted in writing, a grading permit shall be obtained from the City Engineer or designee prior to commencement of any development, excavating, grading, regrading, landfilling, beaming, paving, diking, clearing and grubbing, or other earth changes made to any property within the City. A separate permit shall be required for each separate, non-contiguous site or lot.

Section 10-129. Policies for issuance.

The issuance of a grading permit shall be governed by these policies and those set forth in the City Drainage Design Guideline Manual.

1. Earth changes shall be permitted which do not create a public hazard upon any property within the City through obstruction, impairment, sedimentation, blockage or alteration of any natural or artificial drainage facility or which do not create an unlawful diversion under the Texas Water Code.

2. Earth changes shall be permitted which do not channelize, obstruct or otherwise change any drainage facility in a manner inconsistent with the Drainage Design Guideline Manual, or requirements of the Federal Emergency Management Agency under the National Flood Insurance Program.

3. Earth changes shall be permitted which will not, in the opinion of the City Engineer, unreasonably increase surface runoff. However, this Article does not preclude or prevent the use of regional or off-site stormwater detention or retention facilities provided that adequate facilities to convey increased rates of stormwater runoff to the regional or off-site detention or retention facility are provided.

4. All earth changes shall be designed, constructed and completed so as to minimize loss of soil from a construction area in accordance with the Drainage Design Guideline Manual.

5. The requirements and conditions for a grading permit for any lot, parcel, or tract of land for which an Erosion Control Plan, Drainage Plan or Abbreviated Drainage Plan exists shall incorporate the provisions of the Drainage Plan or Abbreviated Drainage Plan.

Section 10-130. Grading permit requirements.

A grading permit shall consist of a Drainage Plan or Abbreviated Drainage Plan, and an Erosion Control Plan. The grading permit for any lot to be used for building construction, may not be issued unless the plan has been reviewed and accepted by the City Engineer.

A Drainage Plan shall consist of engineering drawings, contour maps, Erosion Control Plan and all supporting engineering calculations, as applicable to the land area covered by the Plan, which are required to demonstrate full compliance with this Article, the City of Bullard Design Guidelines for Subdivision Improvements, Best Management Practices of the U.S. Corp. of Engineers, Texas Council of Governments, or other Best Management Practices acceptable to the City Engineer.

a. Abbreviated Drainage Plans. Upon review of a grading permit application, the City Engineer shall determine if an Abbreviated Drainage Plan is necessary in order to meet the purposes of this Article. If an Abbreviated Drainage Plan is required, it shall be submitted to and reviewed by the City Engineer prior to granting of the grading permit. Although the Abbreviated Drainage Plan does not require the seal or signature of a registered professional engineer, it must be prepared according to the City format, as shown in Exhibit "10-130" following. An Abbreviated Drainage Plan will generally be sufficient for construction of single-family residences on subdivision lots. An Erosion Control Plan is required. An Abbreviated Drainage Plan is applicable to development sites of less than one (1) acre, and for all single-family residential lots.

b. Drainage Plans. Upon review of an application for a grading permit, the City Engineer shall determine if a Drainage Plan is necessary to meet the purposes of this Article. If a Drainage Plan is required, it shall be submitted to and reviewed by the City Engineer prior to granting of the grading permit. Drainage Plans are required on all development sites greater than one (1) acre, except for single-family residential lots.

The Drainage Plan, but not the Abbreviated Drainage Plan, shall be prepared and implemented under the direct supervision of a registered professional engineer, licensed to practice in the State, according to a City format. Each plan submitted for final review and acceptance shall bear the signature and seal of the submitting engineer under the following statement: "I hereby certify that I am familiar with the adopted ordinances, regulations, standards and policies of the City governing development, that these plans have been prepared under my supervision, and that this Drainage Plan complies with all governing ordinances and regulations to the best of my knowledge."

If the site in question lies outside an area of special flood hazard, the plans shall bear the signature of the engineer or applicant under the following statement: "No part of this site lies within the established area of special flood hazard as established by the current flood insurance study of Flood Hazard Boundary Map."

EXHIBIT 10-130

ABBREVIATED DRAINAGE PLAN

SINGLE FAMILY DWELLING SITE MAP

TREE PRESERVATION AREA

TOPSOIL

HOUSE

GARAGE

TREE PRESERVATION AREA

HOLLYCREEK DRIVE

SOIL TYPE: CLAYEY SAND
SANDY CLAY
SANDY LOAM

SLOPE: 1% 2%

PLAN TO BE MODIFIED BY HOME BUILDER TO MATCH SPECIFIC SITE CONDITIONS.

EROSION CONTROL PLAN LEGEND

- PROPERTY LINE
- EXISTING DRAINAGE
- TO TEMPORARY DRAINAGE
- FINISHED DRAINAGE
- SILT FENCE FOR EROSION CONTROL
- HAY BALE DIKE FOR EROSION CONTROL
- 1 AREA TO BE TOPSOILED, IRRIGATION SYSTEM INSTALLED, & SEEDING AND MULCHED OR SOILED BY OWNER PRIOR TO COMPLETION OF CONSTRUCTION.
- STOCKPILED TOP SOIL
- INSTALL AND MAINTAIN STABILIZED CONSTRUCTION ENTRANCE
- TREE PRESERVATION

SUBDIVISION:	
ADDRESS:	
LOT:	NCB:
HOME BUILDER:	
ANTICIPATED START DATE:	
ANTICIPATED COMPLETION DATE:	
PREPARED BY: CTH	DATE:

Section 10-131. Exemptions.

A grading permit is not required for the following:

1. Bona fide agricultural and farming operations requiring no other permit, with the exception of tree harvesting operations;
2. Customary and incidental routine grounds maintenance, landscaping, and home gardening which does not require platting, replatting, variance request, or building permit and which does not affect stormwater drainage on or through the site;

3. Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health or property, and which are made under circumstances where it would be impossible or impracticable to obtain a grading permit.

Section 10-132. Revocation or suspension.

A grading permit may be revoked or suspended by the City Engineer. Written notice shall be given to the permit holder stating the grounds for such action. A grading permit may be revoked or suspended upon one (1) or more of the following:

1. Violation of any conditions of the permit and any associated Drainage Plan or Abbreviated Drainage Plan after notification of non-compliance and failure to take remedial actions as outlined in these sections.
2. Violation of any applicable law, ordinance, or regulation pertaining to the grading permit contained in this Article after written notification of non-compliance;
3. Existence of any condition or performance of any act constituting a hazard or endangering human life or property.

Section 10-133. Compliance.

a. Unless exempted under this Article, it is unlawful to conduct any development, excavating, grading, regrading, excavating, landfilling, beaming, paving, diking, clearing and grubbing, or other earth changes either without a grading permit required under this Article, or contrary to the terms of a grading permit issued under this Article.

b. Upon revocation or suspension of a grading permit issued under this Article, it shall be unlawful to continue to conduct any development, excavating, grading, regrading, landfilling, beaming, paving, diking, clearing and grubbing, or other earth changes without having a valid grading permit in effect.

c. If it is determined that an individual is conducting activities without a grading permit required under this Article, or upon revocation or suspension of a grading permit, the City Engineer may issue a stopwork order on all construction activity on the individual's property which may be directly or indirectly related to site drainage and which is being performed pursuant to any permits, licenses, franchises or contracts issued by the City. Such stopwork order may order a work stoppage on all construction activity on buildings or structures and all appurtenances thereto, including building, electrical, plumbing, mechanical, street work, storm sewer, sanitary sewer, gas lines and all utilities. Notices in writing and orders required by this Section shall be considered effective if served upon the parties concerned either personally or by certified mail, addressed to the individual, contracting party, or permittee at the address given on the contract document or permit application filed with the City.

d. In addition to the enforcement and penalties provided for in this Article, no certificate of occupancy for buildings or structures may be issued until the grading and drainage of the site has been constructed in accordance with the Plan required by this Division.

e. When a grading permit and Drainage Plan are required prior to issuance of a building permit, the structure for which the building permit is issued may not be used, occupied, or receive a certificate of occupancy unless the facilities as shown on the accepted Drainage Plan have been completed by the permit applicant or representative and reviewed and accepted by the City. Such acceptance will be made on the basis of certified as-built drawings prepared by a registered professional engineer. If the structure is in a designated special flood hazard area, it may not be used or occupied until an elevation certificate, properly completed, has been filed with the City.

f. Each day that a violation of this Division shall continue, or be permitted to continue, shall be deemed a separate offense.

Sections 10-134--10-159. Reserved.

DIVISION F. PARKING

Section 10-160. Parking.

All parking shall comply with all the regulations of the zoning ordinance pertaining to parking.

a. No parking or maneuvering shall be allowed within the street right-of-way between the curb, improved roadway or travel portion of the rights-of-way and the common right-of-way property line.

b. No future on-street parking shall be allowed other than parallel.

Section 10-161. Parking in private centers.

a. Authority to designate time limits, parking bans, parking spaces and no parking areas; designation of fire lanes by Fire Chief; application of section. It is unlawful to park or leave a vehicle unattended for a period of time longer than designated at a time when parking is prohibited in a private parking area located within a private center within the City. The owner or operator of a private center shall have authority to designate by appropriate signs and markings which have been approved by the City Engineer, the parking time limit which shall not be less than one hour, the areas in which parking is permitted or prohibited, and the times when parking of vehicles is prohibited. The term "private center" shall include a shopping center, office center, industrial center, medical center, apartment complex, and business establishment. Fire lanes shall be designated by the Fire Chief and governed by Chapter 17.

b. Approval of time limit, parking ban, no parking areas, and parking plan. Subsections a. through c. are not effective until the owner or operator of a private center submits a parking plan to the City Engineer for review and has received approval. Amendments to the private center parking plan shall be submitted and reviewed in the same manner.

c. Erection and content of signs; marking of parking spaces and no parking areas.

1. The owner or operator of a private center is authorized to erect suitable signs of uniform size and design upon approval of the City Engineer, which shall be placed in parking areas advising the public of limited conditions of parking. A sign shall be erected with the words painted thereon in legible red or green lettering setting out that parking in this area is limited to customers for the times indicated by signs, or as otherwise prohibited, as provided by subsections a. through c. of this section.

2. The owner or operator of a private center shall mark off by painting on the parking area the most suitable manner in which cars may be parked, either straight ahead or angle parking. A vehicle parked on the parking lot of the private center shall be parked within the lines so marked.

d. Violations, generally. If a vehicle is found parked in violation of signs properly posted pursuant to this section, the registered owner of the vehicle shall be presumed to be the person who illegally parked it.

e. Enforcement. The owner or operator of a parking area in a private center shall have a responsibility to report such parking violations to police department personnel or other persons approved and authorized to enforce parking laws by the City Council. Within the meaning of this subsection, the words "owner" or "operator" shall mean an individual, association or corporation who has title to or possession of any such parking area, or a greater right to possession of any such parking area than one who violates thereon any provision of this section, including but not limited to any lessee or tenant of one holding such title. Police department personnel or other persons so

authorized by the City Council shall have and possess full and complete authority to enforce the provisions of this section and to issue parking citations to any vehicle which is parked in contradiction to the signs posted.

Section 10-162. Accessible parking space requirements; standards set by Americans with Disabilities Act.

a. Designation of accessible parking spaces. A person or political subdivision who owns or controls public or private property used for parking and who is subject to the Americans with Disabilities Act of 1991 must designate one or more parking spaces or a parking area for the exclusive use of vehicles transporting disabled persons by conforming such spaces to parking space specifications in the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

1. Standards for accessible and "van-accessible" spaces. The ADAAG specifications are the standard by which all property owners offering public services, benefits or activities and/or places of public accommodation will be held responsible for in determining the following parking space requirements:

- (a) Minimum number of required accessible spaces;
- (b) Location of spaces as related to building entrances;
- (c) Width and slope of parking spaces and parking access aisles;
- (d) Requirement of "van accessible" spaces and vertical clearance minimums.

2. Provision of passenger loading zones; valet parking:

(a) Where passenger loading zones are provided, then at least one shall comply with ADAAG requirements with regard to the following:

- (1) Vertical clearance requirements;
- (2) Provision of access aisle(s) and width and length requirements;
- (3) Necessity of curb ramps; and
- (4) Slope requirements.

(b) Valet parking facilities shall provide a passenger loading zone in compliance with ADAAG regulations and located on an accessible route to the building entrance.

3. Signage required; regulated by ADAAG:

(a) Accessible parking spaces shall be designated as reserved by a sign showing the International Symbol of Accessibility as described in ADAAG regulations.

(b) Spaces complying with the "van-accessible" requirements shall have an additional sign "van-accessible" mounted below the symbol of accessibility.

(c) Such signs shall be located so they cannot be obscured by a vehicle parked in the space and there must be a minimum of five (5) feet from pavement to the bottom of the sign.

(d) Property owners subject to these provisions are responsible for acquiring and properly posting the conforming signs.

4. Duty of property owners. Property owners shall acquire appropriate information necessary to conform parking spaces designated for the disabled to the requirements of this section and federal law.

b. Offenses. It is unlawful to stop, stand, or park a vehicle:

1. displaying neither a special license plate or disabled parking placard in a parking space or area designated for the exclusive use of vehicles transporting disabled persons;

2. displaying a special license plate or disabled parking placard in a parking space designated for the exclusive use of vehicles transporting disabled persons at a time when the driver is neither a disabled person nor engaged in transporting a disabled person;

3. so as to block an aisle or clear space, access ramp, curb ramp, or other architectural improvements designed to aid disabled persons.

c. Removal of unauthorized vehicles. The owner of a parking facility, whether public or private, or any peace officer having jurisdiction within the corporate limits may remove or cause the removal of or issue a citation to any vehicle parked in violation of this section.

d. Presumption-Registered owners. In a prosecution under subsection b of this section, it is presumed that the registered owner of the motor vehicle that is the subject of the prosecution is the person who parked the vehicle at the time and place the alleged offense occurred.

e. Definitions. As used in this section:

1. Disabled person means a person who is permanently or temporarily disabled within the meaning of state law or within the meaning of the Americans with Disabilities Act, and who has applied for and received a special license plate or disabled parking placard from the Texas Department of Transportation or successor agency;

2. Special license plate means the symbol, tab, or other device issued by the Texas Department of Transportation or successor agency to a permanently disabled person under state law and designed for a vehicle transporting a permanently disabled person;

3. Disabled parking placard means the placard issued by the Texas Department of Transportation or successor agency to a disabled person under state law.

f. Citation authority. All Police Department personnel, city inspectors, other code enforcement personnel, or other persons authorized by the City Council pursuant to Section 17-88, shall have and possess full and complete authority to enforce the provisions of this section and to issue citations for violations of this section. Persons other than City employees that are authorized by the City Council to enforce this section pursuant to Section 17-88 shall meet all of the requirements of State law, including the successful completion of a training program of at least four (4) hours.

Section 10-163. Unattended motor vehicles.

a. It is unlawful to park and leave unattended, upon any private street, or upon any off-street public or private property used for parking and accessible to the public, a motor vehicle with the engine running or that has the key in the ignition.

b. Exceptions. This section shall not apply if:

1. the unattended vehicle is parked in a private, single-family, residential driveway; or

2. the unattended vehicle is rendered un-drivable by an anti-theft device with no key in the ignition.

Sections 10-164 through 10-169 Reserved.

DIVISION G. PRIVATE DRIVES

Section 10-170. Definitions.

As used in this Division, the following terms are defined as follows:

Curbline: A raised ledge adjacent to the paved portion of a roadway which delineates that portion of the roadway maintained for vehicular travel. In the absence of a raised curb, the edge of the paved portion of the roadway is considered to be the curbline.

Driveway: Any area constructed within the public street right-of-way, connecting the public roadway with private property for the purpose of providing access to private property, for motor vehicles.

Major driveway: A driveway providing access to property used for any purpose other than one- or two-family residential dwellings.

Major street: Any street designated as an "arterial street" on the Master Street Plan, or streets serving as collectors for such thoroughfares. All other streets are "minor".

Minor driveway: Any driveway providing access to property used for one- or two- family dwellings.

Property line: The line dividing two (2) adjacent properties, or a property and a public alley.

Right-of-way line: The line dividing a property and the public right-of-way set aside for street purposes.;

Section 10-171. Permit Required; approval of plans; obtaining building permit where required.

a. No driveway may be constructed, reconstructed, altered or repaired, until a permit is issued therefore by the City Engineer.

b. No driveway permit for a major driveway may be issued by the City Engineer for commercial driveways until the City Engineer has approved the driveway location and design of the off street parking plan.

c. Each application for a major driveway permit shall include a driveway design and an off-street parking plan. The Plan shall be drawn to scale, showing all parking spaces, all existing and proposed curb inlets, landscaping, fences, barriers, utilities, driveway dimensions, existing driveways on the property located within fifty (50) feet of the proposed driveway, the street address, and any additional information required by the City Engineer.

d. If the proposed driveway plan is part of a new building construction or remodeling plan requiring a building permit, the driveway permit may not be issued until the building permit has been issued.

Section 10-172. Revocation; denial; removal of unauthorized driveway.

a. Any permit granted by the City Engineer pursuant to this Division may be revoked by the City Engineer any time the terms of this Division are violated, or when the continued exercise of the privilege constitutes a menace to the public safety or is an unreasonable use of the public streets or ways. Repeated and suspected intentional violations shall be deemed sufficient reason to deny issuance of permits in future applications by the individual violators.

b. If a driveway is constructed, altered or modified without the issuance of a driveway permit, in violation of the conditions of the permit, or in violation of this Division, the City Engineer may require the violator, at violator's expense, to remove the driveway and restore the street and right-of-way to its original condition.

Section 10-173. Compliance of driveway and parking improvements with plans and permit; subject to inspection during construction.

The actual construction of driveway and parking improvements shall comply with the approved plan and permit terms and is subject to inspection during construction.

Section 10-174. Interference of entrances with other facilities.

No driveway entrance shall interfere with City facilities such as street light poles, traffic signal standards or detectors, signs, catch basins, hydrants, crosswalks, bus stop areas, utility poles, fire alarm supports, underground pipes or ducts or other necessary street structures. Arrangements shall be made with the proper authority for the adjustment or relocation of the facility affected and/or adjustments made in the driveway design, before a permit will be issued.

Section 10-175. Unduly hazardous location denials.

Where in the opinion of the City Engineer, a driveway is proposed that meets all requirements of this Division, yet will, by its location or design or other element, be unduly hazardous, the City Engineer may deny such driveway location and/or design. The City Engineer's decision may be appealed pursuant to Chapter 1, Article IV.

Section 10-176. Construction to comply with standards and specifications.

The construction of all driveways shall conform to the standards and specifications published by the City Engineer.

Section 10-177. Modifications to standards; appeals.

a. Modifications. The City Engineer may grant variances to the requirements of this Division to the extent deemed necessary and proper so as to relieve undue difficulty or hardship, if the granting of the variance would not adversely affect the public safety and welfare and would not impair the interest of this Division and the Master Street Plan.

b. Appeals. Appeals to the decisions of the City Engineer in the application of this Division shall be made in accordance with Chapter 1, Article IV.

Section 10-178. Minor driveways.

Minor driveways shall comply with the following:

a. Width. The minimum driveway width shall be twelve (12) feet and the maximum driveway width shall be twenty-five (25) feet, measured at right angles to the center line of the driveway, except as increased by permissible radii. The minimum ramp radii for minor driveways shall be five (5) feet. The maximum ramp radii for minor driveways shall be ten (10) feet.

b. Angular placement. The center line of a minor driveway shall meet the curbline as close as practicable to a right angle. An angle of less than seventy (70) degrees shall not be permitted.

c. Location:

1. If a property used for single-family or two-family dwellings has frontage on both a major and minor street, no driveway access will be permitted to the major street.

2. On a minor street, a curb length of at least fifteen (15) feet shall be left undisturbed from the near edge of the driveway curb opening to the point of curvature of the nearest intersection curb return radius. On major streets a curb length of at least seventy-five (75) feet shall be left undisturbed.

3. A common driveway for two (2) adjacent residential properties may be allowed with the written agreement of the property owners. In such cases, the combined width shall not exceed thirty (30) feet measured at the right-of-way line.

d. Sketch: For example of the foregoing, see the Standard Driveway Detail, available from the City Engineer, which is made a part hereof for all purposes.

Section 10-179. Major driveways.

Major driveways shall comply with the following:

a. Width:

1. A two-way driveway shall have a minimum width of twenty-five (25) feet and a maximum width of forty (40) feet, and a one-way driveway shall have a minimum width of fifteen (15) feet and a maximum width of twenty-five (25) feet, both to be measured along the right-of-way line, except as increased by permissible radii.

2. The minimum ramp radii for a major driveway on a major street shall be twenty (20) feet. The minimum ramp radii for a major driveway on a minor street shall be ten (10) feet.

b. Angular placement. A two-way major driveway shall have a minimum width of twenty-five (25) feet and a maximum width of thirty-five (35) feet measured at right angles to the center line of the driveway at the right-of-way line. A one-way major driveway shall have a minimum width of fifteen (15) feet and a maximum width of twenty-five (25) feet measured at right angles, to the centerline of the driveway at the right-of-way line.

c. Location:

1. At a property line, with an adjacent property or alley, a curb length of not less than one (1) foot shall be left undisturbed between the near edge of the driveway and the property line projected to the curbline, except upon submission of a letter from adjoining residential property owner stating that there is no objection to the radius extending in front of such property and that eight (8) feet shall separate existing or future driveways. Between major driveways, said letter shall state that at least twelve (12) feet shall separate driveways at the property line, and the radii of the two driveways shall not conflict.

2. Driveway curb openings shall not be located within the confines of any intersection curb return radius.

3. At the intersection of two (2) minor streets, a curb length of at least fifteen (15) feet shall be left undisturbed between the near edge of the driveway curb opening and the point of curvature of the intersection curb return radius.

4. At the intersection of a major street with either another major street or a minor street, no driveway curb opening shall be located less than one hundred (100) feet from the intersection of the extended curb lines of the two streets.

5. A curb length of at least twenty (20) feet shall be left undisturbed between curb openings adjacent to major driveways on the same property.

6. A minimum island width of ten (10) feet measured at the right-of-way line and the nose of the island nearest the curb line, may be permitted between adjacent one-driveways serving as a combined entrance/exit facility.

d. Number of driveways. Each property shall be limited to the following:

1. For the first one hundred fifty (150) feet of property frontage along a right-of-way, a maximum of two (2) driveways.

2. For each additional one hundred (100) feet of property frontage along a right-of-way, a maximum of one additional driveway.

In no case shall more than sixty (60) percent of the property frontage along a right-of-way be used for driveway purposes.

e. Special requirements:

1. Barriers. On property used for purposes other than one- or two-family dwelling units, a continuous, six (6)-inch, raised concrete curb shall be constructed on all portions of the property adjacent to the right-of-way except at points of driveway access. Such curbs shall be constructed so as to prevent driving over the sidewalk area except at points of driveway access. Where vehicles are to be parked other than parallel to the right-of-way or property line, curbs shall be installed at least thirty (30) inches from the right-of-way line or property line or located so as to prevent any part of a parked vehicle from extending over the right-of-way line or property line.

2. Street access. All major driveways shall be designed such that all vehicles will enter the adjacent street moving in a forward direction.

3. Common driveway use over property lines. Joint use driveways may be allowed on adjoining properties when the driveway meets all of the requirements of this Division, provided that both property owners agree to such joint use either by joint application for a permit or by submission of a letter agreeing to such joint use by the property owner not making the application.

4. Existing driveways and new improvements. Any existing driveways may be allowed to be used with new improvements to buildings shall conform to this Division.

DIVISION H. SIDEWALKS, CURBS & GUTTERS

Section 10-180. Changing sidewalk width or grade.

It is unlawful to construct, pave or repair any sidewalk to increase or diminish the width thereof as established by ordinance or elevate or lower the same above or below the grade established therefor by the City, or in case the City has established no grade to elevate or lower the same above or below the sidewalks of adjoining property.

Section 10-181. Maintenance of sidewalks and pedestrian areas.

a. Definitions:

City Engineer: The City Engineer or designee.

Defective, unsafe or hazardous: Sidewalk sections that are upheaved or depressed, thereby causing an abrupt change in grade of twenty (20) percent or more (two (2) inches vertical in ten (10) inches horizontal) or creates an unsafe condition as designated by the City.

Sidewalk: That paved portion of the public right-of-way between the curb lines of a street, or the lateral lines of a roadway, and the adjacent or abutting property lines intended for the use of pedestrians.

b. Repair of defective sidewalks to be carried out by abutting property owners. A sidewalk or appurtenance thereto that becomes defective, unsafe or hazardous is hereby declared to be a public nuisance and is unlawful, and it shall be the duty of the owner of the abutting property to reconstruct or repair same at such owner's expense. This duty exists independently of any action by City to notify the abutting owners of the conditions. If a sidewalk or appurtenance thereto is found by the City to be defective, unsafe or hazardous, the City Engineer shall notify the owner of the abutting property to reconstruct or repair same. Failure to reconstruct or repair such defective, unsafe or hazardous conditions within thirty (30) days from the date of written notice to do so, or failure to begin such reconstruction or repair within fifteen (15) days from the date of such notice, is unlawful.

c. Liability of abutting property owners for injuries caused by defective sidewalks. The abutting property owner or person enjoying the use of any property abutting on a sidewalk that has become defective and has resulted in damage or injury shall be primarily liable in damages for any loss or damage sustained as a result of such defective condition. The City shall not be held as assuming any such liability by reason of inspection or reinspection or notice to abutting property owner as authorized herein or by reason of the approval or disapproval of any access, facilities, surfacing or appurtenances not made in accordance with the City Sidewalk Design Standards and Specifications (available from the City Engineer.)

d. Liability of persons making special use of sidewalks. It is the duty of any property owner, landlord, tenant, lessee, sublessee, person, firm or corporation making special use of any sidewalk for the purpose of ingress or egress, for loading elevators, downspout drains or any other special use, whether recited herein or not, to keep such sidewalk abutting such property in a good and safe condition and free from any defects or hazards. Any defective condition of the sidewalk, loading elevator, downspout drain or any other special use or facility is hereby declared to be a public nuisance and is unlawful, and the special user shall be liable in damages for any loss or damages sustained as a result of such defective condition.

e. Repair by City; costs to be a lien against abutting property and owner personally liable for costs.

1. If any person fails or refuses to comply with this section, the City may but assumes no duty to, go upon such property and do or cause to be done the work necessary to obtain compliance with this section. The expense so incurred by City in correcting the condition may be assessed against, and shall be a personal obligation of, the owner of the abutting property. If the owner fails or refuses to pay such expense within thirty (30) days after the work was done, and after the notice and hearing requirements of City Charter Section 51 have been met, the City may file with the Smith/Cherokee County Clerk a statement of expenses incurred in correcting the condition of the property. When such statement is filed, the City shall have a privileged lien on such property to secure the payment of the expended amount. Such amount shall bear interest at the rate of eight (8) percent per annum from the date the City incurs the expense. For any such expenditure and interest and reasonable attorneys fees, suit may be instituted and recovery and foreclosure had by City.

2. Nothing herein shall inhibit the right of City to make immediate repair of any condition considered to be of unusual and immediate danger to life or limb. In such instance the City Engineer shall send an invoice for expenses incurred in the repair of such condition to the owner of the abutting property. If the owner fails or refuses to pay such expense within thirty (30) days after notice of the reasonable charge by the City Engineer, the City may follow the above procedure to perfect a lien on such property.

f. Compliance with City permit licensing and bond provisions. Before any repair or maintenance work is commenced pursuant to this section, the abutting property owner or person enjoying the use of any property abutting a sidewalk shall comply with all permit, licensing and bond requirements as set forth in this Division.

Section 10-182. Obstruction of drainage.

It is unlawful to throw or place in any street, alley, sidewalk, gutter, storm drain, creek or drainageway any refuse or any other obstruction so as to prevent the free passage of water or cause the same to stagnate therein or thereon or in laying down or repairing water, or gas pipes or service, to leave any street, alley, sidewalk, gutter, storm drain, creek or drainageway in such condition as to impair the drainage of same.

Section 10-183. Restoration of surface.

Whenever necessary to make any excavation, the person making or causing such excavation shall cause the earth taken therefrom to be replaced without unreasonable delay and shall cause same to be closely packed and made firm so that the surface thereof shall be as compact and smooth as before such excavation. Where such excavation is made in any graveled or paved street, sidewalk, alley or other public place, the person making or causing same shall after the earth is repacked, restore the surface to at least the preexisting condition, to the satisfaction of the City Engineer.

Section 10-184. Barricades required; warning lights.

Whoever makes any excavation in or adjoining any street, alley, sidewalk or other public place, shall cause same to be barricaded and lighted in accordance with current standard safety practices.

Section 10-185. Cellar doors, vaults. Covering required; water meters

a. Whoever places or maintains in any street, alley, sidewalk or other public place any cellar door or vault, shall arch or cover over same and secure the grating or covering thereof so as to prevent persons, animals or vehicles from falling therein.

b. It is unlawful to keep or leave open any cellar door, covering or grating of a vault on any street, alley, sidewalk or other public place, or allow such door, covering or grating to be in an insecure condition, whereby passersby may fall into a cellar or vault.

c. Water meters. Water meters shall not be located within a sidewalk, unless otherwise approved by the City Engineer. The cost to relocate any water meter located within the area of a proposed sidewalk shall be the responsibility of the developer. Any water meter lawfully existing within a sidewalk on the effective date of this ordinance (May 1, 2006) may continue to exist.

Section 10-186. Gutters not to drain onto sidewalks.

Every owner or person in control of any building shall construct and maintain the gutters to prevent water from spreading over sidewalks.

Section 10-187. Compliance with standard sidewalk specifications.

It is unlawful to construct or cause to be constructed any sidewalks, curbs, gutters, driveways or alley pavements in any street or public place otherwise than in full and strict conformity with City Sidewalk Design Standards and Specifications available from the City Engineer.

Section 10-195. Barriers and warning devices; indemnification for damages.

At all times and periods during which any work under this ordinance is being performed and until such work is completed and accepted, the contractor shall place and maintain all necessary and proper barriers and other safeguards, including watchmen, if necessary, upon and around the work for the prevention of accidents, and at night shall place, maintain and keep suitable and sufficient lights. The contractor shall indemnify and save harmless the City from and against all actions and claims and against all costs, damages and expenses to which the City may be put by reason of any injury or alleged injury to any person or property, resulting or alleged to result from any act, negligence, carelessness or want of skill in connection with or in the conduct of any such work, or in guarding same, or from any improper methods, tools, implements or materials used in its prosecution, or by or on account of any alleged act or omission whatever of the contractor or agents, employees or servants, or of any assignee or subcontractor or agents, employees or servants. The contractor and bondspersons shall make payment of all sums so recovered against the City in any suits on account of such alleged injuries, to which the City may be made a party, together with all such costs, damages and expenses as may be suffered by the City, all so as to save the City whole and harmless from all such actions or claims.

Section 10-196. Work under City control; correcting defects.

All work in City streets and public places is hereby declared to be wholly subject to exclusive City control. Whenever in the City Engineer's opinion any such work has not been completed within a reasonable time, or has been executed in a defective manner, whether because of bad workmanship or materials, or because not true to the lines or grades or specifications therefor given by the City Engineer, then upon written notice from the City Engineer, the contractor shall promptly remedy, complete or remove and reconstruct such incomplete or defective work as the City Engineer may require. These provisions also apply to all repair and maintenance work; and if the contractor fails or refuses so to do within a reasonable time specified by the City Engineer, then the City Council may order such work to be completed or corrected or removed and wholly or partially reconstructed by the City or at its instance so as in the opinion of the City engineer may be necessary to make same as good as originally required. and the contractor shall, on completion of such work and according to the certified bill of cost prepared by the City Engineer, pay to the City the cost of such work. The sureties on the contractor's bond shall be liable for the cost of such work. However, if the City fails or refuses to cause such work to be corrected or completed as aforesaid, then the property owner may proceed in like manner, but without order of the City Council, and contractor and sureties shall be liable for and pay to the property owner the cost of such work as shown by a like certified bill.

Section 10-197. Maintenance or repair work.

The contractor shall construct all such work, and use such materials in the construction thereof, so that the same shall be and remain for and during a period of not less than two (2) years from the date when the permit was

issued by the City for the construction of such work, in good, sound, smooth and serviceable condition and free from all cracks, breaks, disintegration, undue wear, scaling or departures from true line or grade or other defects which might impair the permanence or usefulness of such work. However, such cracks as may appear in expansion joints, or cuts between blocks, shall not be deemed to be defects unless in the City Engineer's opinion such cracks are excessive in opening or defection of surface; and in case any defects develop during such period which in the City Engineer's opinion are due in any measure to defects of workmanship or material, the contractor shall remedy, repair or reconstruct such work, or any part thereof, as may be required by the City Engineer. Such work shall be known as maintenance or repair work and the sureties of contractor's bond shall be fully liable for any defaults of contractor under these provisions.

Sections 10-198 - 10-199. Reserved

ARTICLE IV. ZONING

Section 10-200. General Regulations.

a. Description. This Ordinance establishes zoning districts and the City is divided into these districts in order to classify, restrict and regulate the location of residential, institutional, commercial and industrial land uses.

The specific purposes for so dividing the City are:

1. To regulate the location of land uses and the location of buildings or other structures designed for specific usage.
2. To regulate and limit the maximum height, floor area and bulk of buildings or other structures to be constructed.
3. To regulate and determine the area of yards, courts and other open spaces surrounding buildings.
4. To regulate and limit the density of development.

b. Purpose. This ordinance is adopted in furtherance of the following related and specific objectives.

1. To guide and regulate the development and use of all land within the City, in a manner which will promote the public health, safety and welfare.
2. To promote residential development and occupancy at appropriate locations and densities that will contribute to the well-being of families and will enhance the quality of life in the City's residential neighborhoods.
3. To promote commercial and industrial development at appropriate locations, at a scale and intensity that while contributing to the local economy, will not have a undue adverse impact on the community.
4. To ensure the provision of adequate light, air and open space.
5. To reserve sufficient land at appropriate locations to accommodate a variety of residential, recreational , institutional, commercial and industrial uses.
6. To promote a desirable visual environment through creative development techniques, sign regulation and good urban design.
7. To promote the conservation of open space and valuable natural resources and prevent urban sprawl and degradation of the environment due to improper development and use of land.

c. Empowerment to Zone.

1. The Zoning Ordinance shall be drawn with reasonable consideration to the character of each district and its peculiar suitability for particular uses and to encourage the most appropriate use of land.

2. The regulations in the Zoning Ordinance shall be uniform throughout each district for each class or kind of buildings or structures or uses of land, but the regulations in one district may differ from those in other districts.

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

e. Conflict. In interpreting and applying the provisions of this Ordinance, the provisions contained herein shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and welfare of those persons residing in or visiting the City. It is not intended by this Ordinance to interfere with, or abrogate, or annul any easements, covenants or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of a building or premises, or upon the height of a building, or requires larger open spaces than are imposed or required by other ordinances, covenants, or agreements, the provisions of this Ordinance shall control.

f. Creation of Building Site. No permit for the construction of a building(s) upon any tract or parcel within the City may be issued by the Building Official unless the parcel or tract is part of a plat of record, properly approved by the Planning and Zoning Commission, and filed in the Plat Records of Smith/Cherokee County, Texas.)

g. Certificate of Occupancy and Compliance. No building hereafter erected, converted, or structurally altered may be used or occupied and no land or building may be changed in use unless or until a Certificate of Occupancy and Compliance (CO) has been issued by the Building Official. This requirement shall not apply to single-family attached, detached or duplex dwellings, nor to the routine change of occupancy of individual dwelling units in a multi-family apartment.

1. A CO shall confirm that the building or proposed use of land or building complies with all City Building and Health Codes and ordinances.

2. A CO shall be applied for coincident with the application for a building permit and will be issued after the completion of the erection or alteration of such building or land provided such construction has been made in complete conformity to this ordinance.

h. Completion of Buildings Approved or Under Construction.

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

2. Nothing herein shall require any change in plans, construction, or designated use of a building or other structure for which a building permit has been issued within six (6) months after the effective date of this ordinance, provided construction is started on said structure within sixty (60) days after the effective date of this ordinance.

i. Location of Dwellings and Other Buildings.

1. Only one main building for single-family or two-family occupancy, with permitted accessory building(s), may be located upon a single lot.

2. Every single or two-family residential structure shall face or front upon a public street, or if within a Planned District, an approved private street.

3. Where a lot is developed for multi-family, retail, office, institutional, commercial, or industrial usage, or a combination of same, or for a combination of retail and dwelling purposes, more than one main building may be located upon the lot, but only when such buildings conform to all setback, area, parking and density requirements applicable to the use(s) and required by the zoning district.

4. Whenever two or more main buildings, or portions thereof, are placed upon a single lot or tract, and such buildings will not face upon a public street, the same may be permitted when the site plan for such development is approved by the City Engineer.

5. No outdoor storage area or required open space for one building, shall be computed as being the open space, yard, or area required for any other building or other use.

j. Lot, Yard, Height and Coverage Regulations. The following regulations shall govern exemptions to minimum lot area, lot dimensions, minimum yards, height and area requirements, and maximum lot coverage:

1. Lot Area and Dimensions. Regulations specifying minimums shall apply to all lots except that a lot having less area, width, or depth than herein required which was an official "lot of record" prior to the adoption of this ordinance, may be used for development of a single family dwelling.

No lot existing at the time of passage of this ordinance shall be reduced in area, width or depth below the minimum requirements set forth herein.

2. Yards. The yard regulations specifying the minimum yard requirements, shall apply to all lots within the individual zoning districts unless otherwise specified in this ordinance.

3. Height and Area Requirements. When height requirements are stated in stories and feet, the more restrictive requirement shall apply.

4. Lot Coverage. The maximum percentage of any lot area which may hereafter be covered by the main building and all accessory buildings, may not exceed stated requirements except where an existing building at the effective date of this ordinance may have a greater percentage of a lot covered than herein prescribed. Such building shall be considered a conforming structure.

k. Annexed Territory. Territory annexed to the City shall be governed by the following temporary rules and regulations until the Zoning District Map has been amended to include the newly annexed territory.

1. No individual, company or other party may erect, construct, or proceed or continue with the erection or construction of any building or structure, or add to any building or cause the same to be done in any newly annexed territory to the City, without first applying for and obtaining a building permit or a CO from the Building Official.

2. No building permit for construction or a CO may be issued by the Building Official for any construction or use in a newly annexed territory other than that for the type construction or usage permitted in an "AG" Agricultural District, unless and until such territory has been classified in a zoning district other than the "AG" Agricultural District.

3. Should an application be made to the Building Official for any other type construction or use, the Building Official shall refer the applicant to the City Manager, whereupon the procedure to rezone the territory may be initiated.

4. All new uses of structures and land shall conform to those permitted in an "AG" Agricultural District, unless approved by the City Engineer.

1. Lots Less than Minimum Area. These regulations govern development of any lot(s) which have an area, width, or depth less than the minimum required for the zoning district in which the lot is located.

1. A single family residential structure may be constructed on a lot that is smaller in area than that which is usually required, provided that the lot:

- (a) is located in a residential zoning district; and
- (b) has a minimum lot width of at least fifty (50) feet, and a total area equal to five thousand (5,000) square feet; and
- (c) the lot's boundaries and dimensions were established of record prior to the effective date of this ordinance by a recorded plat of a subdivision.

2. On any lot that is less than sixty (60) feet wide and/or six thousand (6,000) square feet in area, new structures must conform to the height and area regulations of the R-1B Single Family Residential District.

Section 10-201. Interpretations and Definitions.

a. Interpretations. The requirements herein are considered to be minimum requirements. Where the provisions of this Ordinance impose greater restrictions than those of any other ordinance or regulations, the provisions of this Ordinance shall prevail. Where the provisions of any other ordinance or local regulations impose greater restrictions than those of this Ordinance, the provisions of such other ordinance or local regulation shall prevail.

When referring to this Ordinance, the following rules of interpretation shall be applied, except when the context clearly requires otherwise:

- 1. The particular shall control the general.
- 2. In the case of any difference of meaning or implication between the text of this Ordinance and any chart, graph, illustration or table, the text shall control.
- 3. The words "shall" and "will" are always mandatory and are not discretionary. The words "should" and "may" are permissive and discretionary.
- 4. Words used in the present tense include the future tense; words used in future tense include the present tense; words in the singular include the plural, and words in the plural include the singular.
- 5. The words "building" and "structure" shall be construed as though followed by the words, "or a portion thereof".
- 6. The word "lot" includes the words, "parcel", "plot" or "tract", but does not include leased lands.
- 7. The word "occupied" shall be construed as though followed by the words, "or intended, arranged or designed to be occupied".
- 8. Terms not herein defined shall have the meaning assigned to them in the City Building Code. Terms not defined herein or in the Building Code, shall have the meaning customarily assigned to such terms.

9. All public officials, boards, departments and agencies to which reference is made are those of the City unless otherwise indicated.

10. All yards required by this Ordinance shall be open and unobstructed by structures from the lowest level of the lot to the sky except as specifically regulated herein.

b. Definitions. Words in the text or table of this Ordinance shall be interpreted in accordance with the provisions set forth in this section. Where a word has not been defined, the standard dictionary definition shall prevail. In any case, the City Engineer, or designated agent, shall have the authority to interpret the definition of the word as it relates to this Ordinance.

c. The following definitions define and clarify many of the terms used in this Ordinance.

Abandonment: To cease or discontinue a use or occupancy without intent to resume, but excluding temporary or short-term interruptions to a use or occupancy during periods of sale or transfer, remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abut: Having a common border with, and/or being separated from such a common border by right-of-way, alley, or easement.

Access: A way or means of approach to provide physical entrance to a property.

Accessory Structure: A structure which: 1) is clearly incidental and subordinate to and serves a principal building; 2) is subordinate in area, extent, or purpose to the principal building; 3) contributes to the comfort, convenience or necessity of occupants of the principal building; and 4) is located on the same lot as the principal building. Accessory buildings shall include any and all parking garages and in a residential district, accessory buildings or uses shall include garages for automobile storage, tool houses, greenhouses, home workshops, children's playhouses, storage houses or garden shelters.

Accessory Use: A use that: 1) is clearly incidental to and customarily found in connection with the principal use; 2) is subordinate to and serves the principal use; 3) is subordinate in area, extent, or purpose to the principal use served; 4) contributes to the comfort, convenience, or necessity of the occupants, business, or industry involved in the principal use; and 5) is located on the same lot as the principal use.

Adaptive Re-Use: The development of a new and different use for an older building or for a building originally designed for a special or specific purpose.

Adjoining: Properties and/or structures, having direct contact by sharing a common border or wall with no other separation. Contiguous.

Air Rights: The ownership or control of all land, property, and that area of space at and above a horizontal plane over the ground surface of land used for railroad or right-of-way purposes. The horizontal plane shall be at a height that is reasonably necessary or legally required for the full and free use of the ground surface.

Alley: A public or private service way which provides only a secondary means of public access to property abutting thereon and not intended for general traffic circulation.

Alteration: Any change, addition, or modification in the construction or occupancy of an existing structure.

Alteration, Structural: Any external or internal change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders, or in the dimensions or configuration of the roof or exterior walls.

Annexation: The incorporation of land area into the City with a resulting change in the City limit boundaries.

Antenna: Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves, external to, or attached to, the exterior of any building, including the supporting structure; e.g. amateur radio antennas, television antennas and satellite receiving dishes.

Antenna Support Structure: Any structure, mast, pole, tripod, box frame or otherwise tower utilized for transmission, retransmission, or reception of electromagnetic, radio, cellular, or microwave signals.

As Of Right: A use allowed in a particular zoning district without the issuance of a Special Use or Temporary Use Permit.

Apartment House: Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as three or more dwelling units or apartments, or which is occupied as three or more dwelling units or apartments, or which is occupied as a home or place of residence by three or more families living in independent dwelling units. See Dwelling, Multi- Family.

Authorized Agent: An architect, attorney, builder, developer, realtor, lessee or other person empowered to act on behalf of other persons. An authorized agent may represent the owner of real property before the Planning and Zoning Commission, City Council or the Zoning Board of Adjustment.

Automobile: A four-wheeled self-propelled vehicle designed for passenger transportation.

Basement: That portion of a building between the floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling. A basement shall be counted as a story in computing building height if at least one-half of its height is above the average level of the adjoining ground prior to berming, using measurements taken at each corner of the building which meets the ground.

Billboard: An off-premise sign that identifies or communicates a message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

Block: An area enclosed by streets and occupied by or intended for buildings.

Board of Adjustment, Zoning (BOA): The City Zoning Board of Adjustment, reviews and grants variances from the literal application of the requirements of this Ordinance. (See Variance.)

Buffer Area: A strip of land, identified on a site plan or by zoning ordinance, established to separate physically and protect one type of land use from another land use that is incompatible. Ideally, the area is landscaped and kept in open space.

Buildable Area: The space remaining for construction on a lot after the reserved area requirements (yards, setbacks, easements, etc.) have been met. (See Zoning Envelope.)

Building: A combination of materials to form a construction that is safe and stable, and designed to be built for the support, enclosure, shelter or protection of persons, animals, cattle or property of any

kind; including, but not limited to, permanent or continuous occupancy for assembly, business, education, industrial, institutional, mercantile, residential or storage purposes. The term building shall be construed to include the term "structure". When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building, Attached: A building which shares a continuous and permanent wall or roof with an adjacent building.

Building, Detached: A building having no wall, roof, floor or other structural element in common with another building.

Building, Extension: An increase in the amount of the existing floor area within an existing building.

Building, Facade: The area of a single building elevation which encompasses all of such elevation from ground or grade level to the top, and from one side to the other side of the building. A typical building has four facades.

Building Setback Line: A line, established by this Ordinance, parallel or approximately parallel to the front lot line at a specific distance therefrom, marking the minimum distance from the front lot line that a building may be erected except or unless as specifically provided in this Ordinance.

Building, Principal: A building in which is conducted the main or principal use of the lot on which said building is situated. (See Principal Use.)

Building Official: Building Inspector or administrative official responsible for issuing building permits and charged with the administration and enforcement of City construction codes.

Business: A commercial entity which occupies, uses and enjoys real property for the conduct of a commercial activity, either through ownership or through a lease arrangement.

Carport: A structure open on a minimum of three sides designed or used to shelter not more than three vehicles, not to exceed twenty-four feet on its longest dimension.

Certificate of Occupancy and Compliance (CO): Official certification that a premise conforms to provisions of the Zoning Ordinance and all building codes and may be used or occupied. Such a certificate is granted for new construction, alteration, addition or change of occupancy to existing structures. Unless a CO is issued by the Building Official, a structure cannot legally be occupied.

Classroom: A room used for instructional purposes. A classroom contains seating facilities or work stations for each student up to a maximum number of students. Classrooms include lecture halls, laboratories, data processing training rooms and the like. Classrooms do not include auditoriums, meeting rooms, student or teacher lounges, libraries and the like.

Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive areas.

Commercial Use: An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

Commercial Vehicle: Any motor vehicle or non-motorized vehicle (trailer), designed, intended, identified or employed for the conduct of a commercial enterprise.

Common Usable Open Space: That portion of land or area of water, or combination of land and water, within the site designated for a planned development and designed and intended for the use and enjoyment of the residents and owners of the planned development.

Condominium: An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property together with a separate interest in space in a residential building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

Congregate Housing: A residential facility for six (6) or more persons within which are provided living and sleeping facilities, meal preparation, laundry services and room cleaning.

Covenant, Restrictive: A restriction on the use of land usually set forth in the deed which is binding upon subsequent owners of the property. These are private agreements among property owners and are not enforceable by the City. (Also referred to as a Deed Restriction.)

Customer Service Area: An area set aside in any retail or commercial establishment where customers may receive special service or may wait while service is being performed on automobiles, appliances or other customer-owned products.

Cul-de-sac: A local street, one end of which is terminated and consists of an area for turning vehicles around.

Deed: A legal document conveying ownership of real property.

Density: The number of dwelling units per acre.

Development: The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure and any use, or the extension of the use of the land.

District A section of the City designated in the Zoning Ordinance in which uniform requirements for the use of land and buildings and development standards are prescribed.

District Boundaries: That boundary line which separates unlike Zoning Districts.

Drive-In Service: Facilities designed so that patrons customarily park on the premises and obtain services or goods, brought out of the building to them by an employee of the business, without the customer having to leave their car.

Dwelling or Dwelling Unit: Any room or group of rooms located within a structure forming a single habitable unit with facilities which are used and intended to be used for living, sleeping, cooking, eating and sanitation by one family, but not including hotels, motels or boarding homes.

Single-Family: A building containing one dwelling unit designed for occupancy by not more than one family.

Duplex: A building designed for and/or occupied exclusively by two (2) families living independently of each other.

Multi-Family Apartment: A building designed for and/or occupied exclusively by three (3) or more families living independently of each other. (A tri-plex, quad-plex, etc.)

Dwelling, Manufactured Housing/Mobile Home: A detached single family dwelling unit with all the following characteristics: 1) designed for full-time occupancy and containing sleeping accommodations, flush toilet, tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; 2) designed to be transported after fabrication on its own wheels or by other means; and 3) designed to arrive at the site where it is to be occupied complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on and connection to foundation supports, connection to utilities and the like.

Dwelling, Modular Home: A residential structure, transportable in one or more modules or sections, that when assembled on site constitutes a dwelling unit.

Easement: A right-of-way or parcel of land, specified or set aside for a specific use; normally for access, utilities, and other public or private usage, given by the owner of land to another party, and kept free from buildings or structures.

Existing Use: The use of a lot or structure at the time of the enactment of this Ordinance.

Facade: See Building, Facade.

Family: One or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

Fence: A man-made barrier composed of any material or combination of materials, erected to enclose or screen areas of land.

Flood Plain: An area of land subject to inundation by a 100-year frequency flood, as shown on the flood plain map of the City.

Floodway: The channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation.

Floor Area, Gross: The sum of the areas of all floors of a building, including areas used for human occupancy in basements, attics and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, malls or walkways, or any floor space in an accessory building or in the main building, intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance, or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts. Abbreviation (g.f.a.).

Floor Area Ratio (FAR) : The floor area of a main building(s) on a lot, divided by the lot area.

Frontage: The distance along a property line which is also the right-of-way line of a dedicated public street or approved private street.

Grade: The average of the finished ground level at the center of all walls of a building. In the case of walls which are parallel to and within five feet of a side walk, the ground level shall be measured at the sidewalk.

Heavy Load Vehicle : A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor-trailers, buses, vans, or other similar vehicles. The term "truck" shall be construed to mean "Heavy Load Vehicle" unless specifically stated otherwise.

Height (of a building or other structure): The vertical distance to the highest point of the roof for flat roofs; to the deck line for mansard roofs; or to the average height between eaves and the ridge for gable, hip, and gambrel roofs; measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases. The height of the following structures shall be excluded from the definition: chimneys, cooling towers, elevator bulkheads, mechanical rooms, tanks, water towers, television receiving antennas, flag poles, church spires and parapet walls not exceeding three (3) feet in height.

Homeowners Association (HOA): A formally constituted, non-profit association or corporation, comprised of the property owners and/or residents of a formally recognized residential area, which may take permanent responsibility for costs and upkeep of semi-private community facilities.

Household Pet: Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include but not be limited to domesticated dogs, cats, birds, fish and/or rodents.

Home Occupation: An accessory use of a dwelling unit for gainful employment which: 1) is clearly incidental and subordinate to the use of the dwelling unit as a residence; 2) is carried on solely within the main dwelling and does not alter or change the exterior character or appearance of the dwelling; 3) is located in a residentially zoned district and does not adversely affect or diminish the residential character or quality of life of the surrounding neighborhood; and 4) is created and operated as a sole proprietorship by a resident of the household with no employees.

Livestock: Live, domesticated animals including horses, cattle, sheep, pigs, etc., commonly found on a farm or ranch.

Loading Space (Off-Street): An unobstructed, hard-surfaced area, no part of which is located in any street or public right-of-way, the principal use of which is for the parking, loading or unloading of automobiles, buses, trucks and/or trailers.

Lot: A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit, and having frontage on a dedicated public or private street.

Lot Area: The total horizontal area included within the lot lines of the lot.

Lot Coverage: The area of a lot covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

Lot Depth: The mean horizontal length of two lines drawn perpendicular* to the front lot line of a lot, each line passing through one of the two closest points of intersection of either the rear boundary of the zoning envelope (as defined herein) with the two side boundaries, or the front boundary of the zoning envelope with the two side boundaries.

*The measurement lines shall be made perpendicular to the rear lot line if the rear lot line is more perpendicular to the side lot line(s) than the front lot line. Required lot depth shall not include easement areas extending across the rear of the lot. For flag lots, measurement lines shall be drawn from the front lot line (or its extension) which is closest to the zoning envelope; built lot depth may be measured generally parallel to the street when lot width is measured perpendicular to the street in accordance with the definitions of lot width and depth.

Lot, Corner: A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot, Double Frontage: A lot having frontage on two streets.

Lot, Flag or Panhandle: A lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width, but not less than twelve feet.

Lot Lines: The lines delineating the boundary of a lot as defined herein.

Lot Line, Front: The property boundary line that runs common with, and adjacent to, any street frontage or right-of-way separating such lot from such street or right-of-way. In the case of a corner lot, the narrowest width of the lot is deemed to be the front lot line. Where two lot lines abutting streets are of equal length, the owner shall have a choice in designating which shall be the lot frontage.

Lot Line, Rear: That property boundary line which is generally parallel to and most distant from the front lot line of the lot. For triangular lots, the point opposite the front lot line shall be considered the rear lot line and have a value of zero.

Lot Line, Side: Any boundary line of a lot which is not a front lot line or a rear lot line.

Lot, Platted: A platted parcel of land intended to be separately owned, developed and otherwise used as a unit.

Lot of Record: A parcel of land having its existence, location, dimensions and ownership legally recorded or registered, by deed or plat, with the Smith/Cherokee County Clerk.

Lot, Reverse Corner: A corner lot which reverses the depth from the normal pattern of interior lots on a street. The front of the lot also changes from one street to the other.

Lot, Substandard: A lot or parcel of land that has less than the required minimum area or width as established by the District in which it is located.

Lot, Tax: A parcel of land assigned a number and so identified on the records of the Smith County Appraisal District (SCAD)/Cherokee County Appraisal District for purposes of taxation.

Lot, Through: A lot having its front and rear yards each abutting on a street. A lot other than a corner lot abutting more than one street, and having access to more than one street.

Lot Width: The width of a lot as measured at the minimum front setback line, parallel to the front property line.

Manufactured Housing: Single family detached housing that is built to the National Manufactured Housing Construction and Safety Standards Act of 1974, and shall include structures known as manufactured homes. (See Mobile Home.)

Maximum Seating Capacity: The capacity of a room in terms of the number of persons that may be seated in chairs or at work stations in that room, when the chairs or work stations are placed according to Building and Fire Codes or according to acceptable architectural practice. Most often the term is used in reference to classrooms, auditoriums and sanctuaries, and means the number of intended seats in the room according to the design of the room regardless of whether the seats are permanent or temporary.

Mobile Home: A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective February 19, 1975. (See Manufactured Housing.)

Motor Vehicle: Any vehicle designed to carry one or more persons which is propelled or drawn by mechanical power, such as automobiles, trucks, motorcycles and buses.

Non-Conforming Building or Structure: Any building or structure, lawfully existing on the effective date of this Ordinance, or amendment thereto, or which was subsequently annexed to the City, which does not comply with all of the regulations of this Ordinance governing parking or bulk and area requirements for the District in which such building or structure is located.

Non-Conforming Use: A use of building, structure or land lawfully utilized at the time of the effective date of this Ordinance, or amendment thereto, or which was subsequently annexed to the City, which does not conform to the use regulations for the District in which it is situated.

Non-Profit Organization: A non-commercial entity which occupies, uses and enjoys real property for the conduct of a non-commercial activity, either through ownership or through a lease agreement.

Occupancy: The use or intended use of land, building or structures by proprietors, residents or tenants.

Off-Street Parking, Required for Primary Use: Off-street parking spaces provided in order to satisfy the minimum off-street parking requirements specified in this Ordinance.

Open Space: Area included in any side, rear or front yard, or any unoccupied space on a lot that is open and unobstructed to the sky except as provided by this Ordinance.

Open Storage: The keeping, outside a building, of any goods, material, merchandise, or equipment on a lot or tract for more than twenty-four hours.

Open Space, Common: Open Space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development.

Parcel: A continuous quantity of land in the possession of, owned by, or recorded as the property of, the same person(s).

Parking Lot: An off-street, ground level area not within a building or structure where motor vehicles may be stored for the purposes of temporary, daily, overnight or long-term off-street parking.

Parking, Shared: The development and use of parking areas on two or more separate properties for joint use by the businesses, organizations or other entities located on those properties by means of a written agreement.

Parking Space: An all-weather surfaced area, enclosed or unenclosed, no part of which is located in any street or public right-of-way, exclusive of driveways permanently reserved for the temporary storage of one vehicle and connected to a street or alley by a surfaced driveway which affords ingress and egress for vehicles. (minimum 9'x18')

Principal Use: The use which fulfills the primary function of an establishment, institution, household and other entity. The main use of land or structures, as distinguished from a secondary or accessory use. (See Accessory Use.)

Planning and Zoning Commission: The City Planning and Zoning Commission, conducts public hearings concerning petitions for rezoning, Special Use Permits, annexations, subdivision plats, and thoroughfare closures, and other matters pertaining to the physical development of the City.

Planning Director: The head of the Planning Department, responsible for administering the planning activities of the City, and for the interpretation and enforcement of this Zoning Ordinance.

Plat: A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the City subdivision standards and subject to approval by the Planning and Zoning Commission and filed in the Plat Records of Smith/Cherokee County.

Portable Building: A building that does not have an integral, permanent foundation, which is transportable, and which is not a residential structure.

Premises: A lot, together with all buildings and structures.

Public Facilities: Any buildings or facilities which are owned, leased, primarily used and/or primarily operated by the City including but not limited to Transportation services, Utility Services, Transmission Lines, Metering Facilities, and Recreation Facilities/Services.

Property Ownership: Ownership of real property within the boundaries of Smith County as listed on the tax rolls of the Smith County Appraisal District (SCAD)/Cherokee County Appraisal District, or by valid deed of ownership.

Residence: Same as a dwelling; also, when used with District, an area of residential regulations.

Right-of-Way, Private: An area of land deeded, reserved by plat, or otherwise designated to be occupied by a street, railroad, electric transmission line, oil or gas pipeline or other private use.

Right-of-Way, Public: An area of land deeded, reserved by plat, or otherwise accepted and maintained by the City, the County or the State for public use, including streets, water mains, sanitary or storm sewer mains.

Room: A building or portion of a building which is arranged, occupied, or intended to be occupied as living or sleeping quarters, but not including toilet or cooking facilities.

Screening: The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms or other features.

Seating Capacity: The actual seating capacity of an area based upon the number of seats or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the Building Code.

Shopping Center: A group of primarily retail and service commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.

Sign (see also Billboard): A structure or device designed or intended to convey information to the public in written or pictorial form. Any outdoor display, device, figure, painting, drawing, message, plaque, poster, billboard or other object, whether permanently erected or portable, which is designed or intended to be used to advertise or inform and which is designed to be primarily viewed from any place on a public way.

For the definition of specific types of signage and the definitions of sign terms, refer to the Sign Identification Regulations of this Ordinance, Section 10-247.

Single-Family Residence, Attached: A dwelling that is part of a structure containing two or more dwellings, each designed and constructed for occupancy by one family, with each dwelling attached by a common wall to another in which each dwelling is located on a separate platted lot (unless the dwelling is part of a Planned Development District approved without separate platted lots).

Single-Family Residence, Detached: A dwelling designed and constructed for occupancy by one family and located on a lot or separate building tract and having no physical connection to a building located on any other separate lot or tract.

Site Development Plan: A plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

Site Plan Review: The process whereby the City Staff review the Site Plans and maps of a developer to assure that they meet the purposes and standards of the Zoning Ordinance, Subdivision Ordinance and other City requirements.

Special Use: A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to the duration, number, area, location, and relation to the surrounding area, would not be detrimental to the public health, safety or welfare. A conditional use.

Special Use Permit (SUP): A permit authorized by the City Council permitting a special use at a specific location, for a specified period of time, unless otherwise noted.

Stack (Queuing) Space: A paved drive leading off a public street, to a point(s) where service is provided while the individual is seated in a motor vehicle, e.g., drive-thru bank teller window or carry-out food service window; or for the purpose of loading and unloading passengers from vehicles.

Store: A facility housing a commercial establishment displaying and offering for sale, indoors, a wide variety of merchandise, e.g., grocery store, department store, discount store.

Story: That portion of a building enclosed between the upper surface of a floor and the upper surface of the floor or roof next above. For computing building height pursuant to this ordinance, the average height for a story shall be defined as 12 feet 6 inches.

Story, Half: A space under a sloping roof which has the line of intersection of the roof decking and wall face, not more than four (4) feet above the top floor level, and in which space not more than two-thirds of the floor area is finished-off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.

Street: Any thoroughfare or public way, other than an alley, more than twenty-five (25) feet in roadway width, which has been dedicated or deeded to the public for public use.

Street Line: A boundary line between a lot, tract or parcel of land and a contiguous street right-of-way. A street line is the same as a front property line or right-of-way line.

Street, Road (Public): A public thoroughfare, including all the property reserved or dedicated for vehicular traffic, which affords the principal means of access to abutting property.

Street, Road (Private): A way open to vehicular ingress and egress not maintained by public established as a separate tract for the benefit of certain, adjacent properties. This definition shall not apply to driveways.

Street Use License: Permission granted by ordinance for the private use of the public right-of-way.

Structure: A combination of material to form a construction that is safe and stable, including among others; buildings, stadiums, reviewing stands, platforms, staging, observation sheds, shelters, fences and display signs.

Subdivision: The division of land, lot, tract, or parcel into two or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease offer, or development, whether immediate or future. The term also include(s) the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes and bounds description, lease, map, plat, or other instrument.

Temporary Use: A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period. A prospective use, intended for limited duration, which may be located in a zoning district not permitting such a use as of right, but does not constitute continuity of a nonconforming use or building.

Temporary Use Permit (TUP): A permit issued by the City Engineer permitting a temporary use at a specific location for a specified period of time.

Townhouse: A single family, residential structure, constructed in a row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from the common property line of any other unit by one or more common fire walls. A row house.

Tract: An area, parcel, site, piece of land or property which is the subject of a zoning or development application.

Travel Trailer: A mobile vehicle designed and used as a temporary place of dwelling and of such size and design as to be subject to licensing for towing on the highway by a passenger motor vehicle or other prime mover and not requiring a special permit for moving on the highways as contrasted to a mobile home.

Use: A purpose or activity in which land, structures or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

Variance: A relaxation of a restriction of this Ordinance, granted by the Zoning Board of Adjustment, whereby reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation, condition or circumstance of a particular property, the literal enforcement of this Ordinance would result in an unnecessary hardship.

Yard: An open space other than a court, on the lot of which a building is situated and which is not obstructed from a point twelve inches above the general ground level of the graded lot to the sky, except as provided by this Ordinance.

Yard, Front: The required area of open space, as determined by the minimum front yard setback, between any building or structure, extending across the full width of the lot, the depth of which shall be the least distance between the front lot line and the nearest point of the exterior face of any building or structure.

Yard, Rear: The required area of open space, as determined by the minimum rear yard setback, between any building or structure and the rear lot line, extending across the full width of the lot, the depth

of which shall be the least distance between the rear lot line and the nearest point of the exterior face of the main building or structure.

Yard, Side: The required area of open space, as determined by the minimum side yard setback, between any building or structure and a side lot line, extending from the front yard to the rear yard, the width of which shall be the least distance between the side lot line and the nearest point of the exterior face of any building or structure.

Zero Lot Line: The arrangement resulting from placing a building or structure on a lot line.

Zoning District Map: The official Ordinance which delineates the boundaries of the zoning districts.

Zoning Envelope: The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by the maximum height restrictions and the minimum yard setback requirements. (See Buildable Area).

d. Definition of Uses. The following definitions, explanatory notes supplement, restrict and further define the meaning and intent of the use regulations of this Ordinance and those uses listed in Section 10-203, Uses of Land, Buildings and Structures.

Agricultural Products Processing Plant: An industrial facility which involves the operations of processing, preparing or packaging agricultural products which are not grown on the site.

Airport: A transportation facility for the landing or take-off of aircraft, usually equipped with hangars, facilities for refueling and maintenance of aircraft, and various accommodations for passengers, the location and operation of which has been approved by the City as an aircraft landing facility, and subject to the Federal Aviation Administration's requirements for safety and the airport securing air space utilization from the FAA.

Alcoholic, Narcotic or Psychiatric Patient Care Center: A health care facility, public or private, specializing in outpatient treatment for alcohol and drug abuse, or psychiatric problems.

Amusement Center - Commercial (Indoor): A commercial facility offering entertainment to the public for a fee where all activity takes place indoors. Such facilities include video games, pin ball and like coin-operated games and equipment. An arcade.

Amusement Park - Commercial (Outdoor): A commercial facility providing entertainment to the public for a fee where most or all of the activity takes place outdoors. Such facilities include, rides, games, concessions, exhibits and the like.

Animal Exhibition: A collection of animals for display to the public. An animal exhibition does not include the sale, breeding or butchering of animals.

Animal Park: A public or private facility, providing containment and housing of live animals, displaying such in a park like setting, which attempts to duplicate a more natural environment than that offered by a conventional zoo. Such a facility seeks to maximize interaction between animals and humans. The facility may be open to the public, may charge admission or may be for the promotion of some other enterprise.

Antique Mall: A commercial establishment offering for lease individual spaces or stalls inside a building, where independent dealers may display their antiques for sale.

Animal Pound/Shelter: A facility, public or private, including outside runs, for the enclosure of stray or unlicensed pets.

Antique Shop, Antique Sales (Indoor): A commercial establishment displaying and offering for sale within a building articles such as glass, china, furniture or similar furnishings and decorations, which have value and significance as a result of age, design or sentiment. All display and storage of items is to be enclosed within a building.

Apartment: A room or suite of rooms in a multi-family dwelling or apartment house, arranged, designed, or occupied as a place of residence by a single-family, individual, or group of individuals and constituting a dwelling.

Apartment Building or House (2 stories or less): A residential facility, the structure being two stories or less, which is designed for multi-family occupancy, or which is occupied by three or more families living independently of each other.

Apartment Building - High Rise (3+ stories): A residential facility, the structure being three or more stories tall, which is designed for multi-family occupancy, or which is occupied by three or more families living independently of each other.

Appliance (Household) Repair Shop: A commercial establishment providing repairs of household and home equipment, such as electrical appliances, lawnmowers, tools and similar items.

Archery Range: A recreational facility designed and constructed for the practice and teaching of archery, and operated by a public agency, quasi-public or private organization. No discharge of firearms permitted.

Art Gallery/Studio (Commercial): A commercial establishment involved in the production, exhibition and sale of works of art, such as paintings and sculpture.

Art Gallery, Museum (Public): A public facility for the display of objects of art or science which is sponsored by a public or quasi-public agency and which admission is open and available to the public.

Asphalt or Concrete Batching Plant (Permanent): An industrial manufacturing facility for the storage and mixing of materials for concrete or for asphaltic surfacing, in which facilities are established on a permanent basis.

Asphalt or Concrete Batching Plant (Temporary): An industrial facility for the storage and mixing of materials for concrete or for asphaltic surfacing, which is located on a temporary basis to service specific construction projects, and which is to be removed on completion of the project(s).

Automated Teller Machine (ATM): A self-service, electronic device employed by a financial institution to dispense funds and accept deposits automatically. An ATM may be located at the office of the financial institution, in stores, shopping malls, office buildings, etc., or may be housed in a small kiosk.

Automobile Glass, Muffler or Seatcover Shop: A commercial establishment providing automotive services and specializing in the assembly, fitting and installation of glass, seatcovers or mufflers in automobiles as a primary activity.

Automobile Rental or Leasing Agency: A commercial establishment providing automobiles and light trucks for rent or lease, including the storage of such vehicles awaiting lease.

Automobile/Truck Auction: A commercial facility for the storage and sale of automobiles, trucks and other motor vehicles to the highest bidder.

Automobile/Truck Painting or Body Rebuilding Shop: A commercial establishment involved in restoring auto and truck bodies, including painting and refinishing.

Automobile/Truck or other Vehicle Dealership: A commercial establishment involved in the display, sale and servicing of motor and non-motorized vehicles, both new and used, including automobiles, trucks, motorcycles, recreational vehicles and travel trailers, etc.

Auto Parts and Accessories Store: A commercial establishment retailing automotive parts and accessories, with no on-premise installation or repairs performed.

Auto Parts and Accessories, Repair and Installation Store: A commercial establishment retailing automotive parts and accessories with on-premise installation and minor repairs being performed; e.g., a tire store.

Auto Parts Sales (Outdoor): A commercial use of any land area for the display and sale of new or used parts for automobiles, trucks, vans, trailers, or recreational vehicles.

Automobile Repair Garage: A commercial establishment providing major or minor automobile repair services to all motor vehicles except heavy load vehicles, which may include temporary storage of such vehicles.

Automobile/Motor Vehicle Repair, Major: General repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision services, including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and all those activities listed under "Automobile Repair, Minor"; and other similar uses. Major automobile repairs are usually provided as part of a commercial enterprise.

Automobile/Motor Vehicle Repair, Minor: Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; performance of minor motor services such as lubrication, oil, spark plug, and filter changing; tune-ups; emergency road service, replacement of starters, alternators, hoses, brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of vehicle air-conditioning systems, and other similar minor services for motor vehicles except heavy load vehicles. Such activities do not include any operation identified under "Automobile Repair, Major" or any other similar use. Minor automobile repairs are usually provided as part of a commercial enterprise.

Bakery or Confectionery Shop (Retail): A commercial establishment involved in baking and retailing baked goods, or in preparing, baking and retailing candy or other sweets. All goods baked, cooked or prepared on the premises are to be sold at retail on the same premises.

Bank, Savings and Loan or Credit Union: A commercial or non-profit financial institution and its offices, whose primary purpose is the custody, loan, exchange or issue of money, the extension of credit, and the transmission of funds.

Barber or Beauty Shop (Commercial): A commercial establishment, licensed by the state where haircutting, hairdressing, shaving, trimming beards, facials, manicures or related personal services are performed.

Barber or Beauty Shop (Residential): An accessory residential use, operated as a commercial enterprise and licensed by the state where haircutting, hairdressing, shaving, trimming beards, facials,

manicures or related personal services are performed. Such facilities are limited to one-chair, operated by an individual residing at the same location, and are permitted as a Special Use.

Bed and Breakfast (Tourist Home): An owner-occupied dwelling unit, or portion thereof, where short-term overnight lodging, with or without meals, is provided for compensation.

Boarding/Rooming House: A group residential facility that provides housing and meals for compensation and is available for long-term occupancy.

Book and Stationery Store: A commercial establishment which retails books, pamphlets, paper, pens, ink and associated items; not involving wholesale distribution.

Bottling Works: An industrial manufacturing facility where soft drinks or other beverages or liquids, are bottled or canned for wholesale distribution.

Bowling Alley: A recreational facility providing bowling lanes. Such facilities may include other games and may offer food and beverages, and are often operated as a commercial enterprise.

Building Material and Home Supply Store: A commercial establishment offering for sale, lumber, building supplies, tools, home improvement materials and related items, where the materials are stored within a building, or if stored outdoors, all supplies and commodities are stored behind a solid screening wall which is located on, or back of the required building line, and where the supplies and commodities are not stacked or arranged so as to extend above the top of the screening wall.

Building Material Salvage Yard: A commercial facility maintained, used, or operated for the storing, keeping, dismantling, salvaging, buying or selling of used building materials.

Bulk Storage of Highly Flammable Materials: An industrial facility for the storage of chemicals, gasses or liquids which are explosive, or could be caused to ignite or explode.

Bus Station or Terminal: A transportation facility on a common carrier line utilized for bus docking, freight storage, and passenger loading and unloading; not to be construed to include passenger shelters which may be located on a local bus route, i.e. a bus stop.

Business School: A private or commercial establishment involved in training students in clerical skills (correspondence, filing, shorthand, etc.) and other office procedures, including instruction in the use of business machines commonly found in a general office (typewriters, word processors, computers, calculators, etc.), but excluding instruction in the use of hand tools or other equipment not commonly utilized in an office.

Business Services: A variety of commercial establishments primarily engaged in providing services not elsewhere classified, to business enterprises on a fee contract basis, including but not limited to, advertising, computer programming and software services, and office equipment rental and leasing.

Cabinet and Woodwork Shop: A commercial establishment specializing in the repair or production of individual items of furniture and wooden home furnishings, on a custom basis. Such a shop shall not be construed to be a factory, planing mill or similar woodworking plant.

Cafe, Coffee Shop, Tea Room: A small commercial establishment, serving coffee, tea and other beverages to the public, with a limited food service menu. Not a restaurant.

Camera/Photography Store: A commercial establishment which retails photographic equipment and supplies, including cameras, film, photographic paper, auxiliary lenses, photo finishing material, projection equipment and other related items. Photograph developing and printing may be included.

Campground: A recreational area or tract of land on which accommodations for temporary overnight occupancy are located or may be placed, including tents and recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character. Such areas may be operated as a commercial enterprise.

Car Wash (Do-It-Yourself): A commercial facility for washing, waxing and vacuuming passenger automobiles, light trucks and other vehicles through a self-service, stationary operation, operating either as a separate facility or in conjunction with another use. A simple roll-over operation may be included, as long as the vehicle remains stationary during the wash cycle.

Car Wash (Automated): A commercial facility for washing and steam cleaning passenger automobiles, light trucks and other vehicles, which employs a production line method with a conveyor, blower and other mechanical devices, and which may employ some hand labor.

Catering Service: A commercial establishment that provides the preparation, delivery and service of food to be consumed off-premises at another location.

Cemetery, Mausoleum or Crematory: A facility or place, designed or designated for the interment of the deceased.

Church (Temple or Synagogue): A building or structure that serves regularly as a place of worship and religious training, including accessory housing facilities such as a rectory.

Church Activity/Recreation Center: An accessory facility designed and used for recreational activities sponsored by a church for use by the church's membership and invited guests. Such facilities may include a gymnasium, swimming pool, weight room, indoor track, bowling lanes and may include equipment and courts for outdoor recreation.

Cleaning Plant (Commercial): A commercial establishment involved in the dry cleaning and/or laundry of clothing and other fabric items.

Cleaning Shop or Laundry Pick-up Station: A small commercial establishment providing drop-off/pick-up service for the cleaning of garments at another location. May include touch-up pressing on the premises.

Clinic, Out-patient (Medical, Dental or Optical): A health care facility designed and used for diagnosis and treatment of human patients, including offices, laboratories and related facilities, but not including hospital beds for overnight care or treatment.

Clothing/Apparel (Custom Made): A commercial establishment retailing clothing and other garments, individually made to customer order.

Clothing/Apparel Manufacturing Plant An industrial facility involved in the production of clothing and apparel. Manufacturing operations involve cutting, sewing, forming and packing of garments and similar items, including millinery and clothing accessories. May include an outlet store.

Clothing Store: A commercial establishment retailing apparel and accessories.

Club: Buildings or facilities owned or operated by a corporation, association, or group of individuals for social, educational, or recreational purposes, but not primarily for profit or to render a service that is customarily conducted as a business.

Club, Private (Commercial): A commercial establishment which may provide entertainment and food service, licensed by the Texas Alcohol Control Board (TACB), where memberships are sold to the public for on-premise consumption of alcoholic beverages.

College Dormitory: A college residence hall providing group living quarters for the student body, with or without dining facilities.

College, University or Seminary: An academic institution of higher learning, accredited or recognized by the state, offering a program(s) of academic study. A seminary is an institution for training candidates for the priesthood, ministry or rabbinate.

Community Center: A place, structure, area, or other facility used to conduct or house cultural, athletic, social, entertainment and/or recreational programs, generally open to the public and designed to accommodate and serve significant segments of the community.

Community Health or Welfare Center: A community service facility where social, welfare, health or child care assistance is provided by a public, quasi-public, tax-exempt, or church agency.

Convalescent, Nursing or Rest Home: A group residential facility utilized for housing, boarding and nursing care, on a 24-hour basis, of three or more persons who, because of mental or physical incapacity, may be unable to provide for their own needs and safety without assistance.

Convention Center: A public facility or complex which provides cultural, recreational, athletic, convention or entertainment facilities owned and/or operated by a governmental agency, and which may house City offices and services.

Contractor's Shop and Storage Yard: A commercial facility utilized by general contractors, including buildings and open storage yards, for storage of supplies and operating equipment, but not constituting a junk or salvage yard.

Convenience Store: A small commercial establishment, offering for sale at retail, pre-packaged food products, household items and other goods commonly associated with a household, and having a gross floor area of less than 5,000 square feet. Such establishments may include gasoline sales but are limited as to the number of pumps and service islands.

Convent or Monastery: A group residential facility providing housing for a religious order or congregation for persons under religious vows.

Correctional/Detention Facility: A public facility, operated by County, State or Federal government, or by a commercial entity under contract to one of these governments, utilized for long-term incarceration of individuals convicted of crimes where these individuals are housed until such time as they have completed their sentences. Such facilities include minimum and maximum security prisons for adults, and juvenile detention centers for minors. Permitted as a Special Use. See Special Use.

Country Club (Private): A recreational area including a club house and other facilities, restricted to use of a specific membership, which may include a golf course, tennis courts, swimming pool, dining room, social facilities and similar recreational and service facilities, with a minimum of ten (10) acres.

Crisis Center: A secure public or private facility established to offer assistance, temporary shelter and counseling to individuals who have suffered a crisis in their personal lives and which may be in danger of physical or psychological harm. Permitted as a Special Use.

Custom Sewing and Millinery Shop: A commercial establishment specializing in the custom making of apparel and millinery, not involving a large volume or mass production.

Dance Hall (Public or Private): A facility utilized primarily for dancing, with live entertainment or amplified music provided. Such facilities may be operated as a commercial enterprise. Schools of dance are not included.

Day Camp: An open-air recreational area maintained under public or private auspices with facilities comparable with those found in City parks and playgrounds

Day Care Center (Children): A child care facility, licensed by the state, under public or private auspices, which cares for four (4) or more children under sixteen (16) years of age who are apart from their own family or relatives during a part of the day. The term "day care center" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school.

Day Care Center (Adults): An establishment which provides day care for adults who are apart from their own family or relatives during a part of the day. The term "day care center" shall not include overnight lodging, medical treatment, counseling or rehabilitative services.

Day Care Home (Adults): A home-based operation, licensed by the State which provides day care for adults who are apart from their own family or relatives during a part of the day. The term "day care home" shall not include overnight lodging, medical treatment, counseling or rehabilitative services.

Day Care Home (Children): A home-based operation, licensed by the State which provides day care for four (4) or more children who are apart from their own family or relatives during a part of the day. The term "day care home" shall not include overnight lodging, medical treatment, counseling or rehabilitative services.

Drive-Thru Facility (Window): Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions, e.g., drive-thru bank teller, drive-thru food service.

Drug Store: A commercial establishment specializing in retail sale and dispensing of drugs and medicine, and which may include the sale and display of other merchandise, such as cosmetics, notions and similar items, and may provide fountain service.

Dry Cleaning Plant An industrial facility where fabrics are cleaned with substantially nonaqueous organic solvents.

Emergency Shelter (Permanent): A permanent group residential facility providing temporary housing for one or more individuals who are otherwise homeless. Permitted as a Special Use.

Emergency Shelter (Temporary): A temporary group residential facility, or temporary utilization of a permanent facility, for providing temporary housing for one or more individuals who are otherwise homeless as the result of a natural disaster (flood, tornado) or other sudden occurrence, e.g. fire. Permitted as a Temporary Use.

Exhibition Area: An area or space either outside or enclosed within a building, utilized for display of specific goods and distribution of information.

Fairgrounds: An area where outdoor fairs, circuses or exhibitions are held.

Farm or Farmland: A parcel of land used for growing or raising agricultural products, including related structures thereon. Such agricultural products include vegetables, fruits, trees and grain and the raising thereon of the usual farm poultry and livestock, such as horses, cattle and sheep and including necessary accessory uses for raising, treating and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance or law.

Farmer's Market: A commercial or public facility providing a covered area for the retail sale of farm produce by individual vendors, for the primary purpose of selling fruits, vegetables, herbs, spices, edible seeds, nuts, live plants, flowers and honey. Sale of any type of meat, fish or poultry, eggs, refrigerated dairy products and home canned or packaged items is prohibited.

Feed Lot: Any tract of land or structure, pen, or corral, wherein cattle, sheep, goats, swine and other domestic livestock are maintained in close quarters for the purpose of fattening such livestock for final shipment to market. Usually operated as a commercial enterprise.

Feed Store: A commercial establishment specializing in the sale of grain, prepared feed and forage for pets, livestock and fowl, but not involving the grinding, mixing or commercial compounding of such items.

Field Office: A building or structure, of either permanent or temporary construction, used as a job-site office for housing temporary supervisory or administrative functions related to the development, construction or sale of a real estate development or other project.

Firearms Range: A recreational facility designed and constructed for the practice and teaching of marksmanship with handguns, rifles and shotguns, and operated by a public agency, quasi- public agency or private corporation approved by the City.

Flea Market: A commercial facility or open area in which individual stalls or sales areas are set aside and rented, or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique, and which may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. Occasional garage or yard sales are not considered flea markets.

Florist Shop: A commercial establishment specializing in the retail sale of cut or uncut flowers, ornamental plants and accessory items.

Food, Grocery Store: A large commercial establishment, in excess of 5,000 square feet, where food and associated household items are displayed and sold at retail. A supermarket.

Foundry or Metal-Works Facility: An industrial facility for the melting, smelting, molding or otherwise processing or manufacturing of metallic minerals or metal stock.

Fraternity or Sorority House: A social club or association having meeting facilities for members and at least one dwelling unit occupied by a sponsor or supervisor. Fraternity or sorority houses may have dormitory facilities for members. The office or headquarters of a professional, business or other fraternal organization is considered an office for purpose(s) of this definition.

Fruit/Vegetable Market: A permanent commercial facility for displaying and offering for sale fruits, vegetables and other produce. Items may be displayed outdoors or in open-air structures, both permanent or portable.

Fruit/Vegetable Sales (Roadside): The temporary display and sale of fruits, vegetables and other produce, and agricultural products along the roadside of any U.S., State or County road, providing that the entire operation is conducted within the public right-of-way of said road, involves no structures and does not constitute a hazard to traffic. Produce may be displayed on the ground or in the bed of a truck or trailer.

Fruit/Vegetable Stand: A seasonal or temporary commercial facility for the display and sale of fruits, vegetables and other produce involving no permanent structures. Items may be displayed outdoors, indoors, or under open-air, portable structures, tents, canopies, etc. Permitted as a Temporary Use.

Furniture Repair and Upholstery Shop: A commercial establishment involved in repairing and re-upholstering furniture. The use of specialized equipment is included.

Furniture, Home Furnishings and Appliance Store: A commercial establishment specializing in the display and retail sale of furniture, home furnishings and/or appliances such as radios, televisions, stereos, refrigerators, stoves and lawn furniture.

Garage, Parking (Private): An accessory structure for private use of the owner or occupants of a principal building, situated on the same lot as the principal building, or nearby, utilized for the storage of motor vehicles with no facilities provided for mechanical service or repair of vehicles and operated as a commercial enterprise.

Garage, Parking (Public): A structure designed and used for the temporary or long-term storage of motorized vehicles, operated as a commercial enterprise, with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

Garage, Repair: See Automobile Repair Garage.

Garage or Estate Sale: The temporary offering for sale, on a residential premises, of household furnishings, clothing, appliances and related items belonging to the resident of the premises.

General Commercial Services: A variety of commercial establishments, other than personal service shops, involved in the treatment and/or processing of products as a service on a for-profit basis.

General Manufacturing: A variety of industrial establishments involved in the manufacture of finished products and component products, or in the processing of materials or substances, including basic industrial processing.

Golf Course (Public): A recreational facility providing a regulation size golf course, privately or publicly owned, open to the public for a fee.

Golf Driving Range: A recreational area set aside for practicing golf, operated as a private, public or commercial enterprise.

Golf, Miniature: A recreational facility providing a small scale, golf putting course operated as a commercial enterprise. Also referred to as amusement or putt-putt golf.

Grain or Feed Processing Plant, and Grain Elevator: An industrial facility utilized for the storage, mixing or grinding of grains or other prepared foods to be used as feed for pets, livestock or fowl.

Greenhouse or Plant Nursery (Commercial): A commercial establishment specializing in the growing, display and retail sales of plants, flowers, trees and other plant materials, including the sale of related garden supplies and materials.

Greenhouse or Plant Nursery (Private): An accessory structure, limited in size, for the growing and display of plants, flowers, shrubs and other flora for the private enjoyment of the owner and guests.

Group Home for the Disabled: A group residential facility shared by disabled persons*, including resident staff, who live together as a single housekeeping unit, in a long-term, family-like environment in which staff persons provide care, education and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential.

* As used herein, the term "disabled"--mean(s) having: 1) a physical or mental impairment that substantially limits one or more of such persons major life activities so that such persons are incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, "disabled" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home for the disabled" shall not include alcohol or drug treatment center, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration. See Halfway House.

Gymnastic or Dance Studio: A recreational facility or portion of a building used as a place of practice by a gymnast or dancer, or for instructional classes in gymnastics or dance.

Halfway House: A licensed group residential facility for housing inmates on release from more restrictive custodial confinement, or for housing other individuals, initially placed in such a facility, in lieu of more restrictive custodial confinement, wherein supervision, rehabilitation and counseling are provided to aid residents in their return to society, thus enabling them to live independently. Halfway Houses are permitted as a Special Use.

Handicraft, Ceramic, Sculpture or Similar Art Workshop: A facility housing the workplace of an artist or craftsman, engaged in the creation of individual objects such as leather goods, jewelry, ceramics, nonmetallic mineral products or carved three dimensional works of art, including the sale of such items at retail. Such a facility does not involve large volumes or mass-production, and is not to be construed as a factory.

Hardware Store: A commercial establishment specializing in the retail sale of cutlery, tools, utensils, screws, nails and similar hardware items, with no outdoor storage or display of merchandise.

Hauling and Storage Company Facility: A commercial facility for warehousing, transferring or holding goods and equipment.

Hazardous Substances: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

Hazardous Waste Treatment/Disposal Facility: An industrial facility where hazardous waste is treated and/or disposed of.

Health Club: A recreational facility designed and used by members for the promotion of health, recreational opportunities and exercise.

Health Club, Swimming Pool, Gym or Court Complex (Commercial): A recreational complex, along with accessory facilities, which is not operated as part of a municipal, public or private club system, but where the facilities are available to the public for a fee. Membership not required.

Heavy Machinery Sales and Storage: A commercial establishment specializing in the display, sale, rental and storage of heavy machinery, either machines in general or as a functioning unit.

Heliport- Limited Use (Private): A transportation facility with a designated landing area, not available for general use, but for the restricted use of certain aircraft, for the taking-off and landing of rotary-winged, vertical take-off aircraft, including all necessary passenger and cargo facilities, fueling and service facilities. Such facility is not available for use by any helicopter without prior permission. Permitted as a Special Use. Approval for temporary (forty-eight (48) hours or less) heliports or helicopter landing sites may be issued by the Airport Manager.

Heliport - Unlimited Use (Public): A transportation facility with a designated landing area, available for use by any rotary winged, vertical take-off aircraft, which in addition includes all necessary passenger and cargo facilities, facilities for maintenance and overhaul, fueling, service, storage, tie-down areas, hangars, and other necessary buildings and open spaces. Permitted as a Special Use. Approval for temporary (forty-eight (48) hours or less) heliports or helicopter landing sites may be issued by the Airport Manager.

Helistop - Limited Use (Private): A designated area with restricted use, for the taking-off and landing of private helicopters, for the purpose of picking-up and discharging passengers or cargo. No fueling, refueling or service facilities permitted. Such facility is not available for use by any helicopter without prior permission. Approval for temporary (forty-eight (48) hours or less) heliports or helicopter landing sites may be issued by the Airport Manager.

Helistop - Unlimited Use (Public): A designated area available for the taking-off and landing of any rotary winged, vertical take-off aircraft, for the purpose of picking-up or discharging of passengers or cargo. No fueling, refueling or service facilities permitted. Approval for temporary (forty-eight (48) hours or less) heliports or helicopter landing sites may be issued by the Airport Manager.

Hobby Shop: A commercial establishment specializing in the retail sale of hobby supplies such as model kits, art equipment and craft materials.

Home for Senior Citizens: A group residential facility where senior citizens are provided housing and meals and which is operated similar to a lodging house or residential hotel.

Hospital: A health care institution providing health services primarily for in-patient human medical or surgical care, for the sick or injured, and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices that are an integral part of the health care facility.

Hotel and Resort: A commercial facility offering accommodations for over-night lodging on a daily basis to public, and providing additional services, such as restaurants, meeting rooms and recreational facilities for the benefit of guests.

Incinerator: An industrial facility designed and used for the burning of trash and other waste material, permitted by the State.

Industrial Cleaning Plant: An industrial facility for the cleaning of commercial or industrial bulk items.

Industrial Park: A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed and managed as a single development with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

Industry, Heavy: A variety of industrial establishments engaged in the basic processing and manufacturing of materials or products, predominately from extracted or raw materials, or involved in the storage of or processing of flammable or explosive materials, or involved in the storage or a manufacturing process that potentially involves hazardous or commonly recognized offensive conditions.

Industry, Light: A variety of industrial establishments engaged in manufacturing finished products or parts, predominantly from previously prepared materials, including the secondary processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Industrial Use Not listed (Enclosed): Any completely enclosed industrial, manufacturing, processing, or assembly operation, which is not specifically listed in this Ordinance.

Jail: A public facility, operated by local government, utilized for the temporary incarceration of individuals either immediately after their arrest or while awaiting trial.

Jeweler's Shop: A facility housing the workplace of a jeweler engaged in crafting custom made jewelry items which are made to the customer's order.

Jewelry Store: A commercial establishment specializing in the display and retail sale of gems, watches, rings, bracelets, necklaces and similar items.

Junkyard: See Salvage yard.

Kennel (Commercial): A commercial facility for the temporary housing of dogs, cats or other household pets, and where grooming, breeding, boarding, trimming, or selling of animals is conducted as a business.

Kennel (Private): An accessory structure designed or arranged for the care of dogs and cats belonging to the operator of the principal use, and located on the same lot as the principal use, kept for the purpose of show, hunting or as pets.

Key, Locksmith Shop: A commercial facility housing the workplace of a locksmith engaged in the sale of locks and duplication of keys.

Kiosk: A small, free-standing, one-story structure having a maximum floor area of 350 square feet and used for commercial purposes or the posting of temporary information and/or posters, notices and announcements. If a kiosk is to be occupied, a minimum gross floor area of 25 square feet is required.

Laboratory, Manufacturing: An industrial operation involving the compounding of products such as perfumes, pharmaceuticals, and development and assembly of instruments and similar items in a controlled, laboratory environment.

Laboratory, Medical: A commercial or private facility for performing scientific tests and analysis for medical evaluation of humans.

Laboratory, Testing and Research: A commercial or institutional facility for performing scientific tests, analysis or experimental studies.

Landfill: A closely supervised, industrial operation in which refuse and earth or other suitable cover material, are deposited in alternate layers of specified depth, in accordance with a definite plan, on a specified portion of open land, with each layer being compacted by force applied by mechanical equipment. Not a dump.

Laundry or Cleaning Facility (Self-Service): A commercial establishment offering coin operated clothes washers and driers, operated by the customer as a self-service laundry. A washateria.

Library, Museum, Public Arts Complex or Similar Public Use: A facility housing books and other printed materials, paintings and sculpture, antiquities, objects of art and science, and other items of interest to the public, where such items are displayed and may be loaned, and which is sponsored by a public or quasi-public agency, in which the institution is open and available to the public.

Light Fabrication and Assembly Process: A variety of industrial activities, involving the manufacture and assembly of previously prepared materials such as food, drugs, cosmetics, cellophane, canvas, cloth, felt, fur, glass, leather, paint, paper, plastic, wood and metal; and not involving an excessive generation of noise, odor, vibration, dust or hazards.

Livestock Auction: A commercial facility utilized for the sale of livestock at auction, including barns, pens and sheds for the temporary holding of animals awaiting sale.

Lodge or Fraternal Organization: A private, non-profit organization whose primary purpose is to promote the fellowship of its members, which may conduct business associated with philanthropy or civic awareness.

Lumber Sales Yard: A primarily outdoor, commercial facility, operated by a business involved in the storage and sale of cut lumber and associated building materials

Machine or Welding Shop: A commercial facility in which metallic materials are processed by machining, cutting, grinding or welding.

Machinery Sales and Service Shop: A commercial facility utilized for repairing equipment, selling and servicing machinery.

Manufactured Housing (Mobile Home) Park: A parcel of land under single ownership, operated as a commercial enterprise, that has been planned and improved for the parking of manufactured housing or mobile homes, for the purpose of occupying such as single-family residences. Such parks provide water, sewer, electric utilities and access ways, and may provide playgrounds and public use areas. A "trailer park".

Manufactured Housing (Mobile Home) Sales and Service Facility: A commercial facility utilized for display, sale and service of manufactured housing, mobile homes, travel trailers and motor homes.

Manufactured Housing (Mobile Home) Subdivision: A residential area designed and platted for the permanent placement of manufactured housing or mobile homes in a predetermined arrangement, with each mobile home being placed on a separate, platted lot. Not a trailer park.

Medical Appliance, Fitting and Sales Store: A commercial establishment specializing in the fitting and sale of artificial limbs and other special purpose devices related to medical treatment.

Medical or Dental Office: A facility providing office space for physician(s), dentist(s), and related practitioner(s).

Model Home: A single-family, duplex or townhouse residential structure, temporarily used for display, sales or as an office, pending completion of the construction of new residential structures within the subdivision or development in which the model residential structure is located.

Motel (see also Hotel): A commercial facility, building or group of detached or connected buildings, designed or used primarily for providing over-night lodging for automobile travelers and having a parking space adjacent or nearby each guest room. Such operations may include a restaurant and recreational facilities for the benefit of guests. An automobile court or a tourist court with more than one unit, or a motor lodge, is considered a motel; a bed and breakfast or tourist home, is not.

Mortuary or Funeral Home: A commercial facility in which deceased humans are prepared for burial and kept until interment, and in which funeral services may be conducted.

Motor Freight Terminal: A transportation facility operated by a truck line for freight loading, unloading and temporary storage.

Nightclub: A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted; includes cabaret and disco.

Office: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Office Park: A large tract of land, often developed as a campus, that has been planned, developed and is operated as an integrated facility for a number of separate office buildings and supporting ancillary uses, with special attention given to circulation, parking, utilities, aesthetics, and compatibility.

Office-Showroom/Warehouse: A commercial facility with a minimum of seventy-five percent (75%) of its total gross floor area devoted to storage and warehousing, but not accessible to the public. The remaining floor area may include retail and wholesale sales areas, sales offices and display areas for products sold and distributed from the storage and warehousing areas.

Oil and Gas Field Equipment, Sales and Rental Yard: A commercial facility and open area, utilized for the display and storage of large oil field equipment and the offering of such equipment for sale or rent.

Oil and Gas Treatment and Processing Plant: An industrial facility designed to separate and recover hydrocarbons (e.g. butane, ethane, propane) and/or remove impurities (e.g., hydrogen sulfide) from petroleum and/or natural gas.

Optical Shop: A facility housing the workplace of an optician engaged in the fitting and sale of glasses, contact lenses and related optical apparatus for correcting vision.

Orphanage: A group residential facility, operated by a public agency or private institution, for long-term housing and care of orphans or homeless children.

Outdoor Storage: The keeping in an unenclosed area, of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours.

Paint and Wallpaper Store: A commercial establishment specializing in the retail sale of paint, painting equipment and wallpaper.

Paint Shop: A commercial facility where painting services are performed.

Palmstrist, Astrologer, Fortune Teller: Individual(s) practicing the reading of palms, cards or other medium, astrology or similar practice, whereby the future of another individual is interpreted or predicted for a fee. Such practice is considered a commercial activity.

Park or Playground (Public): A recreational facility containing a park or playground, owned and operated by a public agency such as the City of Bullard, Smith County or the Bullard Independent School District.

Park or Playground (Private): A recreational facility containing a park or playground, developed and sponsored by a quasi-public group or private agency, for the benefit of specific groups, such as "Little League" baseball, or for the public in general.

Pawn Brokerage Shop (Indoor): A commercial establishment involved in loaning money on the security of personal property, with all display and storage of items indoors. Unclaimed property may be sold on premises.

Pawn Brokerage Shop/Lot: A commercial establishment involved in loaning money on the security of personal property, with outdoor display and storage of items. Unclaimed property may be sold on the premises.

Pet Shop: A completely indoor, commercial establishment specializing in the display and retail sale of small animals, such as dogs, cats, parakeets, goldfish, tropical fish or canaries, as pets, without involving commercial boarding or medical treatment of any animal, fish or bird.

Petroleum Refinery: An industrial facility utilized for the bulk storage and refining of crude petroleum and for production of refined petroleum products.

Pharmacy (Apothecary): A commercial facility housing the workplace of a pharmacist engaged in preparation, preservation, compounding and dispensing of drugs and medicines. Not a drug store.

Photocopy/FAX Service: A commercial establishment that specializes in reproducing drawings, plans, maps, or other copy by means of photocopying and may offer FAX services.

Photography Studio: A facility housing the workplace of a professional photographer engaged in taking and processing photographs; not a bulk processing plant.

Piano, Music Lessons at Home: Individual instruction in piano or other musical instrument, taught by a resident of the household.

Plumbing, Electrical, Air-Conditioning and Heating Shop: A commercial establishment providing supplies, repairs, installation and sales of plumbing, electrical, air-conditioning and/or heating equipment.

Pool Hall: A commercial establishment providing customers with billiard tables, either for a fee or as a free service, where customers are allowed to play pool and other billiard games.

Portable Building Sales: A commercial establishment which displays and sells structures which are capable of being carried and transported to another location, not including mobile homes.

Print Shop, Major: A commercial establishment specializing in long-run operations using a variety of printing presses. Long-run operations involve book publishing, blue prints, die cutting, printing of catalogue sheets, newspapers, engraving, four-color printing, lithography and thermography.

Print Shop, Minor: A commercial establishment specializing in short-run operations that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating of booklets and reports. Short-run operations refer to services that include, for example, the copying of newsletters, flyers and resumes. Placement of orders for printing conducted off-premises is permitted.

Prison: See Correctional Facility.

Private Club: Premises occupied by an association of persons who have been granted a private club registration permit under the State Alcoholic Beverage Code, enabling said club to have alcoholic beverages stored, possessed and mixed on the club premises, or served for on- premises consumption to club members and their families and guests.

Private Recreational Club: Premises used as a private club by persons who are voluntarily associated in either an incorporated or unincorporated relationship, for the purposes of engaging in recreational activities including golf, tennis, swimming, boating, racquetball, bowling and similar activities, but not including coin-operated billiard tables, pinball machines, electronic machines, and other table games customarily played indoors. As used in this definition, the term "premises" mean(s) all contiguous lots and land owned by the association. A private recreational club may provide food service. Where alcoholic beverages are served or provided, the gross income of the association from membership fees, service charges for the use of recreational facilities, and food sales, by excluding income from pool tables, pinball machines and similar devices, shall constitute at least fifty (50%) percent of the gross income of the association, exclusive of State sales tax and exclusive of State gross receipt tax on the sale of alcoholic beverages.

Private Restaurant Club: A building or portion of a building operated as a private club where the primary business is the on-premise sale of prepared food, with adequate kitchen facilities for the preparation of such food. The adequacy of said kitchen facilities to be based upon the seating capacity of the restaurant and type of menu offered; and where at least fifty (50%) percent of the gross income of the organization, exclusive of State sales tax and exclusive of State gross receipts tax on the sale of alcoholic beverages, shall be derived from the sale of prepared food; and where any outside entrances, outside separate identification, outside signs or other separate advertising for lounge or bar areas shall be permitted only as an accessory or secondary feature of the restaurant. Live entertainment permitted.

Public Building: Any building (except a building used primarily for general office purposes) which is owned, leased, primarily used, and/or primarily occupied, by any division or agency of the State, Federal, County or City government, or by any public or quasi-public agency or utility.

Public Office of Local, State or Federal Agency: A governmental facility such as office buildings, courts, law enforcement headquarters, which are required by branches of local, state or federal agencies for service to an area.

Public Shop or Yard, of Local, State or Federal Agency: A facility such as a maintenance yard and shops, required by branches of local, state, or federal agencies for service to an area; e.g., State or County Highway Department Yard, City Service Center, Experiment Station, etc.

Race Track (Automobile/Motorcycle): A facility for motorized races, including closed course, straightaway or acceleration runs.

Race Track (Horse, Dog): A facility for conducting animal races, and which may include paramutual wagering, licensed by the State.

Radio, Television or Microwave Communications Operations (Amateur): The transmission, retransmission or reception of radio, electromagnetic or microwave signals for private or personal use and not for operating a business or for financial gain.

Radio, Television or Microwave Communications Operations (Commercial): The transmission, retransmission or reception of radio, electromagnetic or microwave signals primarily for the purpose of operating a business or for some other financial gain.

Radio, Televisions or Microwave Broadcasting Tower: A structure supporting an antenna for transmitting or receiving any portion of the radio spectrum, but excluding non-commercial antenna installations for home reception of radio or television broadcasts.

Railroad Freight Terminal and Yard: A transportation facility on a railroad line for loading and unloading of freight, and maintenance of locomotives, cars and other rolling stock.

Railroad Passenger Station: A transportation facility on a railroad line for loading and discharging of passengers.

Railroad Team Track, Freight Depot or Docks: A transportation facility utilized by a railroad for loading and unloading of freight trains.

Railroad Track and Right-of-way: The right-of-way and track used by a railroad, but not including railroad stations, sidings, team tracks, loading facilities, dock yards or maintenance areas.

Recreation Center: A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

Recreational Vehicle: Any camper, travel trailer or other trailer (including boats, autos, or any other item stored thereon), designed to be towed on public streets which exceeds twenty-two feet (22') in length; or any motor home, coach bus or other self propelled vehicle which exceeds twenty-two (22') feet in length.

Recreational Vehicle (R.V.) Dealership: A commercial establishment involved in the display, sales and service of new or used recreational vehicles, R.V.'s, including campers, motorhomes and travel trailers.

Recreational Vehicle (R.V.) Park: Any premises designed primarily for transient occupancy on which one or more motorhomes, travel trailers or campers are parked or situated, and used for the purpose of supplying to the public a parking space for one or more such vehicles, for not more than fourteen (14) consecutive days.

Rectory or Parsonage: A residential facility designated by a church to be used by the clergy of that church as a place of residence. Such facilities are often located on or adjacent to the primary church property, but such proximity is not required. A rectory or parsonage may include counseling rooms and private meeting rooms, but these uses are secondary to the primary use of the facility as a residence.

Recycling Center (Limited): A private or commercial facility that is not a salvage yard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand, all within a completely enclosed building.

Recycling Collection Point: A collection facility for small volumes of refuse material, such as bottles and newspapers, collected either in a portable container or small structure. Processing of such items is not permitted at such facilities, only collection, reduction and packaging.

Recycling/Reprocessing Center (All Materials): A commercial facility that is not a salvage yard, in which recoverable resources, such as newspapers, magazines, books, other paper products, metal and glass containers, are recycled, reprocessed and treated to return such materials to a condition in which the materials may again be used.

Rehabilitation Care Facility: A residential facility which provides housing and care to not more than six (6) persons, regardless of legal relationship, who have demonstrated a tendency towards

alcoholism, drug abuse, or mental illness, living together with not more than two (2) supervisory personnel, as a single housekeeping unit.

Rehabilitation Care Institution: A group residential facility which provides housing and care for seven (7) or more persons, regardless of legal relationship, who have demonstrated a tendency toward alcoholism, drug abuse, or mental illness, living together with supervisory personnel.

Reprographic Service Shop: A commercial establishment providing quick reproduction service for written material, documents, reports, correspondence, drawings and plans, and providing supplies related to the production of such original material. See Photocopy/FAX Service.

Rescue Mission: A group residential facility, usually operated by a non-profit, charitable, or religious organization, which provides temporary boarding and/or lodging and ancillary services on the premises to primarily indigent, needy, homeless or transient persons.

Research Institute and Laboratory: A building(s) in which are located facilities for scientific research, investigation, testing, or experimentation, but not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Residence Hotel: An extended stay lodging facility consisting of efficiency units or suites, each with a complete kitchen suitable for long-term occupancy. Customary hotel services such as linen, maid service, telephone and upkeep of furniture are usually provided. Meeting rooms, club house and recreational facilities intended for the use of residents and guests are permitted. This definition shall not include other dwelling units as defined by this Ordinance.

Restaurant or Cafeteria: A commercial establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

Restaurant or Eating Place with Drive-thru Service: A commercial establishment serving food to the public, having a designated dining area, as well as a drive-thru, food service window. Permitted as a Special Use.

Restaurant or Eating Place with Drive-in Service: A commercial establishment that offers quick food service, which is accomplished by means of a limited menu, where food is served for consumption on the premises, to customers seated in a motor vehicle, and which may or may not, have an on-premise dining room or service counter. A "Drive-in".

Restaurant or Eating Place, Fast-Food: A commercial establishment that offers quick food service, which is accomplished by means of a limited menu of items (hamburgers, chicken, etc.), already prepared and held for service, or prepared, fried, or griddled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers.

Retail Services, Incidental: The rendering of retailing or services incidental to the primary use. In an Office district, such uses might include a barber or beauty shop, smokeshop, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy. Such uses shall have no separate outside entrance and no outside signage.

Retail Sales (Store or Shop): A variety of commercial establishments engaged in the selling of goods and merchandise to the public for personal or household consumption and rendering services incidental to the sale of such goods.

Retirement Center (Congregate Housing): A multi-family residential facility, building(s) containing semi-independent dwelling units, similar to apartments, where the occupants of the dwellings are primarily persons 60 years of age or older. Residents are provided special support services such as meal preparation, central dining and limited medical care. Such facilities may also provide other services such as transportation and counseling.

Retirement Center (Independent Housing): A multi-family residential facility, building or group of buildings containing individual self-contained dwelling units where the occupancy of the dwellings is primarily persons 60 years of age or older, or couples where either the husband or wife is 60 years of age or older. No medical care or convalescent facilities are provided. Senior apartments.

Revival, Outdoor/Tent: An outdoor religious service of limited duration, perhaps conducted under a tent or other similar portable covering. Outdoor events of this type are permitted as a Temporary Use. See Temporary Use.

Sales, Outdoor, (Permanent): Open-air sales lot, intended for the continuous, year round display of merchandise outdoors.

Sales, Outdoor, (Temporary): Open-air sales lot, established for temporary periods for the sale of seasonal commodities such as Christmas trees, lawn and garden supplies, etc. Temporary outdoor sales are permitted through issuance of a Temporary Use Permit (TUP) for a specific period of time, or in some cases, through issuance of a Special Use Permit (SUP) authorizing extended outdoor display. See Temporary Use, Special Use.

Salvage Yard: Any establishment maintained, used or operated for storing, keeping, dismantling, salvaging, buying or selling of: 1) scraps or discarded pieces of metal, paper, rags, tires, bottles and other materials; 2) inoperable, wrecked, scrapped, ruined or discarded automobiles or other motor vehicles, automobile parts, machinery or appliances. If junked or wrecked automobiles remain outside a building for more than thirty (30) days as inoperable, partially dismantled, wrecked, or junked automobiles, the area shall be deemed for the purpose of this ordinance, a salvage yard.

Sanatoriums, Medical: A health care facility providing health services for treatment of the chronically ill. A hospital devoted to specialized treatment.

Sand, Gravel, Stone or Earth Sale and Storage Facility: An outdoor facility for storing and marketing sand, gravel, stone or other earthen substances.

Sand, Gravel, Stone or Mineral Extraction Facility: A site where stone, sand, gravel or minerals are mined or extracted.

Sanitary Landfill (Public or Private): See Landfill.

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured, and is usually in the shape of a shallow dish, cone, or horn. Such device(s) are used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based sources (satellites). This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (television reception only satellite dish antennas), and satellite microwave antennas.

Saw Mill: An industrial facility having power driven machinery for sawing logs and usually accessory facilities for drying and storage of wood materials and by-products.

School: A public, private or parochial educational facility, that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high/middle schools and high schools.

School, Business or Professional: A school, commercial or non-profit, organized to offer instruction and training in a service or art, such as secretarial school, barber college, beauty school or commercial art school, but not including trade schools.

Secondhand Store (Used Furniture or Rummage): A commercial establishment involved with the sale of secondhand or used furniture and other household items, in which there is no outside display or storage of items.

Security Facility: A structure and the equipment required in order to ensure the security of an establishment. Such facilities may include fences, lights, towers, guard houses, cameras and other surveillance equipment. Mobile home for housing security personnel permitted as a Special Use.

Self-Service Storage Facility: A building(s) in a controlled access and fenced compound, that offers to the public various sizes of individual, compartmentalized and controlled access stalls or lockers for the storage of goods or wares. See Mini-Storage Warehouses.

Service (Retail): A variety of commercial establishments engaged in the sale and/or servicing of goods, where a minimum of eighty percent (80%) of the gross floor area is devoted to service, repair or fabrication of such goods, and the service area is not accessible to the public. Vehicle services, automotive uses and rental stores are specifically excluded from this definition.

Service Station: Any premises where gasoline and other motor fuels are sold and dispensed, and light vehicle maintenance services, such as engine tune-ups, lubrication, minor repairs, flats fixed and carburetor cleaning, are performed. Service stations do not include premises where heavy vehicle maintenance such as engine overhauls, automobile painting, and body/fender work are performed.

Shoe Repair Shop: A commercial establishment specializing in repair or reconditioning of footwear, handbags and other leather articles such as shoes, boots, sandals, wallets, purses and other similar products.

Shop, Specialty Retail: A commercial establishment displaying and offering for retail sale, indoors, exclusive items and/or a limited variety of merchandise; e.g., a dress shop, toy-hobby shop.

Shop, Work/Repair: A commercial facility housing the workplace of a craftsman or other individual involved in the practice of a trade; e.g., television repair shop, watch repair shop.

Special Promotional Device/Activity: A balloon, banner, mechanical apparatus, lights, etc. displayed or exhibited, or activity performed for promoting an establishment or entity. Permitted as a Temporary Use. See Temporary Use.

Stable, Riding Club: A public or private facility, including buildings and land, intended to accommodate equestrian events, where horses are kept for hire, sale, boarding, riding or show.

Stable, Private: An accessory structure in which horses are kept for private use and not for remuneration, hire, or sale.

Stadium (Public): A recreational facility providing an athletic field and spectator seating for viewing athletic or other events, owned and operated by a public agency for the benefit of the public, including, but not limited to, a baseball field, football field, rodeo arena, or multi-purpose stadium.

Storm Water Retention Basin and Pumping Station: A reservoir, lake, pond or area designated for temporary storage of surface water during periods of heavy run-off, together with any pumping facilities, tanks, gates or similar control structures related to drainage operations.

Studio of the Arts (Instructional): A public or commercial facility offering a place for instruction, coaching or counseling of personal skills involved in the arts; e.g., painting, sculpture, drama, dance, music, public speaking or similar skills.

Studio of the Arts (Private): A private facility housing the workplace of an artist engaged in painting, sculpture or other individual artistic endeavor.

Studio (Broadcasting or Recording): A public or commercial facility for broadcasting live or pre-recorded programs by radio or television, or recording of such programs, records, tapes, compact discs, video tapes or other recorded media. Such a facility may house activities and equipment necessary for recording and programming, broadcasting and receiving, radio and television signals. Such facility shall not engage in mass production.

Swimming Lessons (Classes) at Home: Group instruction in swimming and water safety, taught by a resident of the household.

Swimming Pool Sales and Supply Store: A commercial establishment specializing in the display and retail sales of swimming pools, related supplies and service. Such sales may involve outdoor display of model pools and pool accessories.

Swimming and Court Complex (Public): A recreational facility, open to the public, that provides only such facilities as necessary for swimming, tennis and racquetball.

Swim, Tennis or Racquetball Club: A recreational facility similar in operation to that of a country club, but providing only such facilities as necessary for swimming, tennis and racquetball, to a specific private membership and invited guests.

Tailor/Seamstress Shop: A commercial facility which houses the workplace of a tailor or seamstress engaged in fabrication, alteration, repair, of men's and women's clothing and apparel. Not a clothing factory.

Tanning Salon: An indoor commercial facility where individuals may receive a tan by means of artificial light.

Tanning, Slaughtering or Rendering of Animals: An industrial facility in which the tanning, rendering, slaughtering or butchering of animals is conducted. Such activities are to be conducted entirely within an enclosed structure. Holding pens for live animals awaiting slaughter, may be open-air if the pens observe all setback requirements.

Taxidermy Shop: A commercial facility housing the workplace of a taxidermist engaged in the preparation, stuffing and mounting of the skins of primarily game animals, birds or fish.

Tent Sale: An outdoor sale of merchandise, either new or used, conducted for a specific period of time, on a temporary basis. Items for sale may be displayed under a tent or the tent may be used as a promotion. Outdoor activities such as a tent sale require a Temporary Use Permit (TUP). See Temporary Use.

Theatre, Movie or Cinema: A private or commercial indoor facility providing patrons seating for the purpose of viewing a motion picture.

Theatre, Drive-In Movie: A commercial outdoor facility developed and arranged so that patrons may view a motion picture on a large outdoor screen while seated in their automobiles.

Theatre or Playhouse (Indoor): A private or commercial indoor facility, with a stage for the presentation of live theatrical performances or concerts to the public.

Theater (Outdoor): An open-air facility, with a stage for the presentation of live theatrical performances or concerts outdoors, with or without seating provided for the audience. An amphitheater.

Tire Dealership (No Open Storage): A retail establishment engaged in the sale and installation of tires for motor vehicles not involving the open storage of tires or other merchandise.

Tire Dealership (With Open Storage): A retail establishment engaged in the sale and installation of tires for motor vehicles, with the open storage of new and used tires permitted.

Tire Retreading and Capping: The process by which tires are treated with a new tread.

Tobacco Store: A commercial establishment specializing in the retail sale of tobacco, cigarettes, cigars and associated items, including the small scale blending of tobaccos.

Tower, Broadcast or Reception: A structure situated on a non-residential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for dispatch communications. See also Antenna.

Tower, Observation: A tall structure designed to support a platform whereby individuals may stand in order to gain a view of the area below or of other areas in the distance.

Trailer or Mobile Home Display and Sales Lot: The offering for sale of trailers or mobile homes, including display and storage, on a parcel of land, but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

Travel Bureau: An agency engaged in selling or arranging transportation, trips or tours for individuals or groups.

Truck Terminal: A transportation facility used as a relay station for the transfer of a shipment, from one vehicle to another, or from one party to another. Such terminals do not include the permanent or long-term storage of goods for uses at other locations. The terminal facility may include storage areas for trucks and trailers, and buildings and areas for the servicing and repair of trucks and trailers associated with the terminal.

Truck and Trailer Rental: A commercial establishment involved in renting and leasing trucks and trailers, including the display and storage of such vehicles awaiting rental. Servicing of rental vehicles permitted.

Truck or Tractor Sales and Service Dealership: A commercial establishment specializing in the display and sale of trucks, tractors, buses or similar motorized vehicles, including the servicing of such vehicles.

Used Car Dealership: A commercial establishment specializing in the sale of used cars and other motor vehicles, with such vehicles usually displayed only on a sales lot. Commonly, an accessory use of a new car or truck dealership.

Utility Distribution or Transmission Lines: Facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to, electrical transmission lines, gas transmission lines and metering stations.

Utility Shop, Storage Yard or Building (Private): A facility of private utility companies, such as gas or electric companies, for the outdoor storage of poles, pipes and equipment, and building for maintenance and administration.

Utility Substation: A station which is subsidiary to a central station and at which a utility from the central station is converted or passed on to another area.

Utility Trailer/Truck Rental: The parking and rental of small utility trailers and/or trucks for individual rental. Commonly, an accessory use at a gasoline service station.

Veterinary Clinic (No outdoor pens): A medical facility for the diagnosis and treatment of pets and other animals, including but not limited to dogs, cats, birds and other household pets, where all treatment and other care are provided indoors. No outdoor boarding or runs.

Veterinary Clinic (With outdoor pens): A medical facility for the diagnosis and treatment of pets and other animals, including but not limited to dogs, cats, birds, cattle and horses. Outdoor boarding and runs may be provided.

Vocational Technical or Trade School: A commercial school involved in training students in vocational-technical skills (e.g., auto mechanics, barbering, food service, electrical, plumbing, welding, etc.) and other trade studies, including instruction in the use of a variety of machines and equipment (e.g., lathes, drill presses, electronics, etc.).

Warehouse: A building used primarily for the storage of goods and materials.

Warehouse, Mini-Storage: A commercial complex of small storage units which are rented or leased, and which are arranged to be individually accessible to the lessee or renter.

Warehouse, Storage and Distribution: A commercial facility designed and used for the storage and/or wholesale sale and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are inflammable or explosive, or that create hazardous or commonly recognized offensive conditions.

Water or Waste Water Treatment Plant: A facility for the systematic collection and treatment and dispersal of water and waste water; usually operated as a public utility.

Wood Products Manufacturing Plant: An industrial manufacturing facility where large volumes of raw wood or lumber are cut, trimmed, planed or otherwise finished into wood products.

Zoo: A recreational facility housing and displaying live animals, reptiles and birds, open to the public and operated for a fee or for the promotion of some other enterprise.

Section 10-202. Zoning Districts and Uses.

A. Special Districts – Thoroughfare Overlay District

1. General Purpose and Description

US69, FM 2493(Houston St) and FM 344(Main St) are primary thoroughfares within Bullard. The Thoroughfare Overlay District establishes development standards for properties within these corridors regarding land uses, site and architectural design, building materials, landscaping, lighting, and signage. The Thoroughfare Overlay District is intended to substantially advance a legitimate governmental interest that includes enhancing the quality of life in Bullard, to regulate the character of growth along these corridors, and to assure the careful and orderly growth of a historical trail and doorstep of Bullard.

a. Boundary

The Thoroughfare Overlay District includes all property within five hundred fifty feet (500') of the centerline of these roadways. The District excludes all single-family subdivisions platted prior to May 1, 2006. Some lots or tracts may be fully or partially located in the District. It is the intent of the Thoroughfare Overlay District to transition from those lots or tracts located fully in the District to those lots or tracts not located in the District by extending building materials and landscape standards to those lots or tracts partially located in the District. Transitioning concepts will be developed on a project by project basis through the concept plan, preliminary site plan, and/or site plan review process.

b. General Requirments of the Overlay District

1. Permitted Uses - Land uses permitted in the Overlay District are outlined in the Zoning Maps of Bullard.

2. Uses with Conditional Development Standards - Several land uses within the Overlay District are permitted subject to compliance with conditional development standards. These uses and the standards are:

a. A Dry Cleaning Establishment, Drugstore or Pharmacist, Kiosk, Restaurant with Drive-in, Restaurant with Drive-Thru, Bank, Automated Teller (ATM), or any other drive-thru facility shall be permitted subject to the following standards:

(i). A minimum ten foot (10') wide landscape island shall be constructed around the outer edge of the drive-thru lane for a minimum distance to equal the length of stacking required for the drive-thru facility.

(ii). The landscape island shall contain minimum three inch (3") caliper evergreen or deciduous trees planted fifteen feet (15') on-center with minimum five (5) gallon shrubs planted three feet (3') on center. Ornamental trees evenly interspersed between the evergreen or deciduous trees may be substituted for the shrubs. If the landscape island is located on the perimeter of the property, perimeter landscaping requirements may be applied towards this requirement.

b. Radio Sales & Installation, Security System Installation, Automobile Repair (minor), Service Station, Auto Glass Sales & Repair, Vehicle or Car Wash, Tire Dealer, or any other use with a service bay shall be permitted subject to the following standards:

(i). Service bays shall not be oriented towards an adjacent street. Where a lot has frontage on more than one street, a service bay may be oriented towards a street upon provision of a landscape island and landscaping, but in no case shall a service bay be oriented towards the Thoroughfare.

(ii). All service bays shall be screened from adjacent streets and properties with landscaping planted on a landscape island. The landscape island shall have a minimum

width of fifteen feet (15'). The landscape island shall not be located more than forty five feet (45') from the service bay.

(iii). The landscape island shall contain minimum three inch (3") caliper evergreen or deciduous trees planted fifteen feet (15') on-center with minimum five (5) gallon shrubs planted three feet (3') on-center. Ornamental trees evenly interspersed between the evergreen or deciduous trees may be substituted for the shrubs. If the landscape island is located on the perimeter of the property, perimeter landscaping requirements may be applied towards this requirement.

(iv). Dismantled or wrecked vehicles must be parked and/or stored in the building or screened from adjacent streets and properties with a landscape island around the perimeter of the storage area.

(v). The landscape island shall include a combination of minimum three inch (3") caliper evergreen and deciduous trees, ornamental trees and/or minimum five (5) gallon shrubs to form a solid, living screen. If the landscape island is located on the perimeter of the property, perimeter landscaping requirements may be applied towards this requirement.

c. Service Stations and Convenience Stores with Gas Pumps shall be permitted within designated sub-districts subject to the following standards:

(i). Service Stations and Convenience Stores with Gas Pumps shall be located only at the intersection of major thoroughfares. No mid-block stations are allowed.

(ii). Fuel pump islands must be within two hundred feet (200') of the right-of-way lines of the intersecting major thoroughfares.

(iii). Canopies and canopy columns shall meet the primary exterior construction requirements for the applicable sub-district.

3. Landscaping

a. Property owners are responsible for installing, maintaining, and replacing required landscaping.

b. All landscaping shall be mechanically irrigated.

c. Tree grates shall be used in high pedestrian traffic areas.

d. Tree guards are to be installed in urban streetscape areas where tree grates are not required, as well as other areas deemed necessary through review by City staff. Tree guards shall take the form of a low fence of twelve (12) to fourteen (14) inches in height of ornamental metal defining the edge of the tree wells. Gauge of metal utilized should not be less than three-eighths (3/8) of an inch diameter.

e. Bollards shall be used to protect trees and pedestrians in any curb-less condition. Bollards shall have a nominal height of twenty four inches (24") and a nominal diameter of eighteen inches (18"). Bollards shall be native or cast stone, granite, or cast iron.

4. Site Development

a. Development shall be sited as to maximize presence. The primary facade of all buildings shall face a public or quasi-public street.

b. The location and placement of buildings on individual sites shall reflect consideration for roadway access, the preservation of major existing natural vegetation, visual impact, and the relationship to surrounding developments.

5. Exterior Appearance of Buildings and Structures

a. All buildings shall be architecturally finished on all four sides with a higher level of finish on the front facades. A front facade shall be those facades directly visible from an adjacent street and the facade used as the primary entrance.

b. Building entrances shall be articulated and defined to present a strong entry presence. All buildings shall be designed to incorporate no less than three (3) of the following architectural elements. Buildings over fifty thousand (50,000) square feet must include a minimum of five (5) of the following elements. Buildings over one hundred thousand (100,000) square feet must include a minimum of seven (7) of the following elements.

- (i). Canopies, awnings, or porticos;
- (ii). Overhangs;
- (iii). Recesses or projections;
- (iv). Arcades;
- (v). Peaked roof forms;
- (vi). Arches;
- (vii). Outdoor patios;
- (viii). Display windows;
- (ix). Architectural details, such as tile work or moldings, integrated into building facade; or
- (x). Integrated planters or wing walls that incorporate landscape and sitting areas.

c. All buildings with a height of twenty four feet (24') or greater shall be designed to express a base, midsection, and top. The base and tops of buildings shall vary in material (See Article III, Figure 4.01(B)). All facades shall include:

- (i). Articulated ground floor levels;
- (ii). Minimum three foot (3') overhangs at eaves; and
- (iii). Articulated cornice lines.

d. All buildings must be consistent with the community's identity, character, and scale. All buildings shall incorporate a basic level of architectural variety as follows:

(i). Facades greater than one hundred feet (100') in length shall incorporate wall projections or recesses of ten feet (10') or greater. Projections or recesses shall be at least twenty five percent (25%) of the length of the facade. No uninterrupted length of facade may exceed one hundred feet (100') in length (See Article III, Figure 4.01(C)). Projections and recesses shall not be required of the wall of the building containing a loading dock and/or service area.

(ii). Ground floor facades facing the Roadways must incorporate entry areas, arcades, display windows, awnings, or other architectural variety features along no less than sixty percent (60%) of the facade. The remaining forty percent (40%) may not be contiguous.

(iii). Offsets, reveals, or projecting rib shall be used to express architectural or structural bays.

(iv). All buildings within a planned development or development as shown on a concept plan or preliminary site plan shall have similar architectural styles, materials, and colors.

6. Buildings Materials and Colors

a. Building Materials

(i). 90% of the façade of the building shall be masonry construction and no less than 75% of the building exterior shall be masonry construction.

(ii). Primary exterior construction materials shall be:

- a. Brick;
- b. Native / Natural Dimensional Stone (minimum of 20% per wall with the exception of walls containing a loading dock or service area); or
- c. Tinted, split-face, concrete masonry units (maximum 15% per wall).

(iii). Secondary exterior construction materials (see Article III, Figure 4.01(Q)) shall be used to accent primary exterior construction materials, but shall not exceed ten percent (10%) of the facade area. Secondary exterior construction materials shall include:

- a. Aluminum;
- b. Other metals;
- c. EIFS; or
- d. Stucco.

(iv). The use of natural texture and colors shall be used to the greatest extent possible. Lighter tones and colors are recommended. Required dominant colors include light-to-medium earth tones illustrated in pages 46 through 155 of the Pittsburgh Paint Voice of Color Sampler. City staff will maintain this referenced color sampler. Light colors include colors 1-2 of each sample page. Medium colors include values 3-4. The colors of black and stark white are prohibited.

b. A variety of exterior materials may be selected for use as the dominant material on the facade of a building, but the number of materials on a single building shall be limited to no more than three (3) materials in order to achieve a "clean" design style.

c. No single building material shall cover more than eighty percent (80%) of the front of any building, with the exception of on-site utility or service structures.

d. Windows shall not be glazed or reglazed with mirrored or reflective glass.

e. Maintenance and durability of materials shall be considered as important qualities for every element of the design. Special care shall be taken to specify the use of vandal resistant building components.

7. Sidewalks - Meandering sidewalks with a width of four (4) feet are required to be constructed in accordance with City standards along the right-of-way along the entire length of the street frontage.

8. Parking

a. All driveways aligned with a median opening and serving parking lots over two hundred (200) parking spaces must provide:

(i). A median-divided driveway at the entry

(ii). Internal stacking areas a minimum of one hundred feet (100') at entries/exits with no intersecting driveways with the exception of slip roads; and

(iii). Drive lanes that define the streetscape experience from the Thoroughfare to building entry.

b. Off-street parking shall not be required for outdoor dining areas of up to seven hundred fifty (750) square feet.

c. Slip roads introduce opportunities for variety in the streetscape. Slip roads extend the street zone into the parking area, making parking lots more plaza-like and integrated. Slip roads combine parking, uniform tree plantings, enhanced paving, seating areas and access to retail stores, making these spaces lively and pedestrian-friendly. Where required, slip roads shall be designed in accordance with Article III, Figure 4.01(H) and as follows:

(i). The first row of parking shall be located eight feet (8') from the property line. The minimum depth of each parking space within the first row of parking is eighteen feet (18'). The width of the adjacent driveway and/or fire lane shall be twenty four feet (24'). A second row of parking shall be provided on the opposite side of the driveway and/or fire lane. These parking spaces shall be twenty feet (20') deep, or eighteen feet (18') deep when adjacent to landscaping or a sidewalk with a minimum width of six feet (6') to accommodate a two foot (2') parking overhang. The second row of parking is optional, but the trees required for this area shall be planted regardless of the existence or non-existence of parking.

(ii). Within each row of parking, a landscape island with dimensions equal to the adjacent parking spaces shall be constructed after every third parking space. A minimum three inch (3") caliper large tree shall be planted on each landscape island.

(iii). A row of minimum three inch (3") caliper large trees shall be planted on the property two feet (2') from the front property line nominally thirty six feet (36') on-center. These trees shall align with minimum three inch (3") caliper trees planted on each landscape island located within the slip road. These trees will be centered on each landscape island and located seventeen feet (17') and sixty feet (60') from the front property line.

(iv). The trees planted sixteen feet (16') from the back of the street curb shall align with the trees planted both thirty feet (30') and seventy two feet (72') from the back of the street curb.

(v). The drive lane and parking areas of the slip road shall be defined with enhanced paving such as brick, stone or scored concrete.

(vi) Slip road parking shall be screened from the thoroughfare with a low row of shrubs. Shrubs shall be minimum five (5) gallon shrubs planted three feet (3') on center.

(vii). With the exception of the Rural Corridor sub-district, the area between the slip road and the property line may be improved with enhanced paving, rather than landscaping.

(viii). Slip roads shall be interrupted by building placement or other means prior to intersection.

9. Service Areas, Loading Areas, and Outdoor Storage

a. Loading and service areas and outside storage areas shall be screened from the view of adjacent properties and all public streets. Screening shall be a solid masonry wall to match the building, earthen berms, or landscaping. Screening shall be a minimum of six (6) feet in height. A landscape screen shall be solid and reach the minimum height of six (6) feet within two (2) years of the issue date of the Certificate of Occupancy for the building.

b. Refuse storage enclosures are required for all developments. Enclosures shall:

(i). Be three-sided and consist of solid walls of six (6) to eight (8) feet in height to match the building. Compactors shall be enclosed on three (3) sides by a solid wall with a minimum height of eight feet (8') and the fourth side by a eight foot (8') gate.

(ii). Be designed to contain all refuse generated on-site between solid waste collections.

(iii). Not be located in required setbacks and generally not be visible from adjacent streets or residential uses.

c. Screening walls for loading and service areas, outside storage areas, and refuse storage containers shall be constructed of primary exterior construction materials. Vegetation shall be used to soften the appearance of the walls. This may include either vines trained up the wall or minimum five (5) gallon shrubs planted thirty inches (30") on center.

d. Regardless of orientation, all loading areas shall be located greater than seventy feet (70') from a public right-of-way.

e. Mechanical equipment shall be screened from view six feet (6') above finished grade by a wall. In all cases, screening shall be compatible with building materials. Mechanical penthouses shall compliment overall building design.

f. All ground-mounted service equipment such as air conditioners, transformers, trash collection equipment and other service functions shall be located at the rear of all buildings and integrated into the building envelope or consolidated into enclosed service areas.

g. No outside storage, sales, or operations of any kind shall be permitted unless such activity is visually screened from the public view architecturally to match building materials (excluding wood).

h. All commercial and utility vehicles stored or parked on a property overnight shall be located inside an enclosed building or screened from the view of adjacent streets and properties. These vehicles shall not be located between the building and an adjacent street. Screening shall be a solid masonry wall to match the building, earthen berms, or landscaping. Screening shall be a minimum of six (6) feet in height. A landscape screen shall be solid and reach the minimum height of six (6) feet within two (2) years of the issue date of the Certificate of Occupancy for the building.

10. Exterior Signage

a. Monument signs shall be placed perpendicular to the adjacent street.

b. Design, materials, and finish of monument signs shall match those of the buildings on the same lot.

11. Building Entry Areas

a. Landscaping shall be used to emphasize building entries.

b. Special paving such as brick, exposed aggregate or patterned concrete shall be used to define building entries.

c. Sidewalk connections shall be provided from building entries to parking areas and public sidewalks.

12. Lighting

a. On-site lighting for vehicular and pedestrian purposes shall be installed by the property owner in accordance with City design standards.

b. The City of Bullard shall coordinate the installation of the street lights in and along major thoroughfares in accordance with City design standards.

13. Streetscape Elements

In addition to the form-giving rows of street trees, a framework of streetscape elements will tie together the sub-districts. These elements include pedestals and light standards; street furniture; and landscape punctuation points.

a. Enhanced Light Standards

(i). Light standards shall be manufactured by Bega, or an equivalent, and be a dark color as approved by the City Manager.

(ii). The light standard monument in the street median and parkways are nominally thirty feet (30') in height and may support seasonal banners.

(iii). The vehicular-scale light standard monuments in parking areas shall not exceed thirty feet (30') in height. The vehicular-scale light standard may be placed on a stone pedestal.

(iv). The pedestrian-scale light standard is nominally ten feet (10') in height, may feature a hanging basket, and should be placed in pairs flanking the sidewalk.

b. Street Furniture

(i). Benches, bike racks, trash containers, bollards, and public art are to be incorporated into developments with an urban streetscape. These site elements may be placed in the right-of-way if permitted by the City and Texas Department of Transportation.

(ii). All site furniture shall be made of long-lasting materials such as concrete, stone, or metal, and shall be approved by City staff. City staff will maintain a list of approved site furniture. All buildings over thirty five thousand (35,000) square feet shall provide at least three (3) of the following elements:

- a. Benches;
- b. Bollards;
- c. Clocks;
- d. Litter containers;
- e. Drinking fountains; or
- f. Bicycle racks.

(iii). All benches and litter containers shall typically be located at building entrances.

(iv). A decorative wall or bollards with heights of three feet (3') should be used to separate vehicular traffic from pedestrian traffic.

B. Designation of Zoning Districts.

1. The City is divided into twenty-four (24) "Zoning Districts": Ten (11) of which are restricted to residential use; four (4) for office, limited commercial or educational use; six (6) for commercial use; and three (3) for industrial/manufacturing use.

2. The use and area regulations shall be uniform in each individual zoning district, and said districts shall be classified as: Residential, Office and Educational, Commercial, or Industrial.

3. The Residential Districts established by this Ordinance are designated as:

AG Agricultural / Open Space District

R-1A Single-Family Residential District

R-1B Single-Family Residential District

R-1C Single-Family Residential District

R-2 Two-Family Residential District

R-3 Multi-Family Residential District

R-4 High Rise Multi-Family Residential District

R-MH Manufactured Home Residential Districts

R-TH Townhouse Residential District

PUR Planned Unit Residential District

PMF Planned Multi-Family Residential District

4. The Office, Limited Commercial and Educational Districts established are designated as:

RPO Restricted Professional and Office District

AR Adaptive Reuse District

ED Educational District

POD Planned Office District

5. The Commercial Districts are designated as:

C-1 Light Commercial District

C-2 General Commercial District

C-3 Central Business District

C-4 High-Rise Commercial District

PCD Planned Commercial District

CHS Commercial Health Services District

6. The Industrial/Manufacturing Districts established are designated as:

M-1 Light Industrial District

M-2 General Industrial District

M-3 Heavy Industrial District

C. Maps. The boundaries of these zoning districts are hereby established and shown on a map designated as the City of Bullard *Zoning District Map*.

1. The *Zoning District Map* and all the notations, references and other information shown thereon are a part of this Ordinance and shall have the same force and effect as if such map and all information shown thereon were fully set forth herein.

2. Such *Zoning District Map* shall be filed and maintained as follows:

(a) One copy shall be filed with the City Secretary and retained as the original record and shall not be changed in any manner.

(b) One copy shall be filed with the City Manager and shall be maintained current by the City Manager, by posting thereon all changes and subsequent amendments for public observation and for the issuance of building permits.

(c) Reproductions for informational purposes may from time-to-time be made of the official *Zoning District Map*.

3. Any person aggrieved or affected by any amendments made to the adopted Zoning District Map may appeal such revision by filing a request for rezoning with the City Manager. Such request shall be filed within six (6) months of the effective date of revisions to the Zoning District Map. The procedures in Section 10-250 shall govern such request, except that no fee shall be required.

D. Zoning District Boundaries. The following guidelines shall be observed in preparing the *Zoning District Map* and in making any changes to the district boundaries.

1. Where the district boundary lines on said map follow either streets, alleys or lot lines, and where the districts designated on the map are bounded by such street, alley or lot line, the center line of the street or alley or the lot lines shall be the boundary of the district unless such boundary is otherwise indicated on the map.

2. Where uncertainty exists as to the boundaries as shown on the official *Zoning District Map*, the following rules shall apply:

(a) Boundaries indicated as following a railroad line or right-of-way, shall be deemed to be located midway between the main tracks of said railroad line, or in the middle of the right-of-way.

(b) Boundaries indicated as approximately following the City limits, shall be construed as following the City limits.

(c) Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water, shall be construed as following such centerline.

3. Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be property lines; and where the districts designated on the map are bounded approximately by lot lines, the lot line, not to exceed a distance of 25 feet, shall be construed to be the boundary of the district.

4. In the case of a district boundary line dividing a property into two parts, the district boundary line, not to exceed a distance of 25 feet, shall be construed to be the property line nearest the least restricted district.

5. Boundaries indicated as parallel to or extensions of features indicated in the paragraph above shall be so construed. Distances not specifically indicated on the original *Zoning District Map* shall be determined by the scale of the map or by dimensions.

6. Whenever a street or alley is vacated, adjacent districts shall extend to the center line of the vacated street or alley right-of-way.

Section 10-203. Uses of Land, Buildings, and Structures.

a. Permitted Uses. For convenience, the uses of land, buildings and structures, permitted within the City limits are listed on the chart contained in this section, "Uses of Land, Buildings and Structures", hereafter "Use Chart".

1. The permitted uses listed on the Use Chart are the only uses allowed by right in a particular district, except as governed by 3 below.

2. The special uses listed on the Use Chart are the only uses permitted by Special Use Permit (SUP) in a particular district, except as governed by 3 below.

3. If a use is requested for a district which is not listed on the Use Chart, it may be allowed only after approval is given according to the procedures set forth in this Ordinance under "Classification of Unlisted Uses".

4. Uses. The zoning districts in which a use is permitted or prohibited, or permitted under certain conditions, is indicated on the Use Chart in the district column by the following symbols:

X Use Allowed By Right

S Use Permitted as a Special Use (Special Use Permit Required)

T Use Permitted as a Temporary Use (Temporary Use Permit Required)

E Existing Use

P Planned Use (Plan Required*)

H Use permitted as a Home Occupation

___ Use Not Allowed

* For properties designated "PUR", "PMF", "POD" or "PCD" Planned Development District, or a site development plan is required as a condition of the zoning. If undeveloped, any use proposed for such properties shall be required to adhere to the approved site development plan. If the property is developed, any proposed use shall be required to utilize the existing structures.

5. Abbreviations

The following abbreviations have been employed:

ADMIN. administration	MKT. market
BLDG. building	MUNL. municipal
BRNCH. branch	PERM. permanent
COM'L. commercial	PRI. private
CONV. convenience	PROD. production
COREC. correctional	PUB. public
CTR. center	REC. recreational
DIST. distribution	RES. residential
DORM. dormitory	R.R. railroad
EQUIP. equipment	R.V. recreational
FAB. fabrication	VCHL. vehicle
FACL. facility	SR. senior
FED. federal	STA. station
GOVT. government	SUBD. subdivision
HAZD. hazardous	SUPL. supplies
HOSP. hospital	TEMP. temporary
IND. industry	TERM. terminal
INST. institution	TRANS. transportation
INSTL. installation	W/ with
LAB. laboratory	W/O without

MAX. maximum WRHS. warehouse
MED. medical WHSLE. wholesale
MFG. manufacturing
MIN. minimum

Section 10-204. Classification of Unlisted Uses.

a. Classification. When uses of land, buildings or other structures arise that have not been classified in this Ordinance, the City Engineer shall make an administrative decision as to the appropriate district(s) in which an unlisted use will be allowed.

b. Appeals. The decision of the City Engineer concerning the appropriate district(s) for an unlisted use may be appealed to the Zoning Board of Adjustment and Appeals pursuant to Section 10-251.

Section 10-205. Non-Conforming Use Regulations.

a. Non-Conforming Uses and Structures. Uses of land, buildings and other structures within the City which do not conform to all of the provisions of this Ordinance, may be allowed to continue even though the use or structure does not comply with the requirements of this Ordinance provided the use or structure can qualify as a legal Non-Conforming Use or Non-Conforming Structure under the following:

1. The regular and continuous occupancy or use of a building, structure or land, lawfully being occupied or utilized in the City at the time of the effective date of this Ordinance, or amendment thereto, or which was subsequently annexed by the City, which does not conform to the regulations prescribed for the zoning district in which it is situated, shall be deemed as a non-conforming use.

2. A building or structure, lawfully in existence and lawfully constructed at the time of the effective date of this Ordinance, or amendment thereto, or which was subsequently annexed by the City, which does not comply with all of the regulations of this Ordinance governing parking, signage or bulk and area requirements for the zoning district in which such building or structure is located, shall be deemed a non-conforming building or structure.

3. A use, building or structure, lawfully in existence and lawfully utilized, constructed, located and occupied in accordance with the provisions of the prior zoning ordinance, or which was a non-conforming use thereunder, and which use or structure does not now conform to the provisions of this Ordinance, shall be deemed a non-conforming use or structure.

b. Regulations of Non-Conforming Uses and Structures. The following regulations shall apply to all non-conforming uses, buildings or structures as identified in "a" above, and shall govern the continued occupancy or use of same.

1. The use of land for outdoor storage purposes which does not conform to the provisions of this Ordinance shall be discontinued within one (1) year from the effective date of this Ordinance and provided, further, that the use of land which becomes non-conforming for such use or for any other use, by reason of a subsequent amendment to this Ordinance, shall also be discontinued within one (1) year from the date of adoption of the amendment.

2. The lawful occupancy or use of a building existing at the time of the effective date of this Ordinance may be continued for an indefinite period although such use does not conform to the provisions thereof.

3. If a non-conforming use of any building or premises is discontinued for a period of six (6) months or longer, then such non-conforming use shall be deemed to be permanently abandoned and may not be resumed unless in compliance with all zoning regulations.

4. No non-conforming use or structure, except when required to do so by law or ordinance, may be enlarged, extended, reconstructed or structurally altered, unless such non-conforming use or structure is changed to a use permitted in the zoning district, or the structure is so improved as to comply with the requirements of this Ordinance.

5. When a building or other structure, the use of which does not conform to the provisions of this Ordinance, is damaged by fire, explosions, the elements, act of God, or the public enemy, to the extent of more than fifty percent (50%) of its assessed value as listed on the records of the Smith County Appraisal District (SCAD)/Cherokee County Appraisal District, the building or other structure may not be restored except in conformity with the regulations of the zoning district in which it is located or as provided in this Ordinance.

When damaged by less than fifty percent (50%) of its assessed value as reported by the Appraisal District, a non-conforming building or structure may be repaired or reconstructed and used as before the time of damage, provided such repairs or reconstruction are completed within one (1) year of the date of such damage.

6. An occupancy or use illegally established in violation of the provisions of any prior Zoning Ordinance shall not be validated by the adoption of this Ordinance.

Section 10-206 General Regulations of Planned Districts. Site Development Plan

a. Planned District Site Development Plan Requirements.

1. The proponents of a Planned District shall prepare and submit a Site Development Plan at the time of application for zoning for review and recommendation by the City Manager and the City Council.

2. The City Engineer may waive the required submission of the Site Development Plan at the time of application, if in the City Engineer's opinion a site plan is not necessary for adequate review of the requested zoning district and allowed uses. However, no building permits may be issued for any portion of a planned district until the City Council, upon recommendation of the Planning and Zoning Commission, approves a Site Development Plan for the subject property.

3. Site Development Plan shall include:

(a) Names and addresses of:

(1) Applicant and/or owner of the property

(2) Person preparing the Site Development Plan

(b) North point, scale, and location map.

(c) Current zoning and proposed zoning.

(d) Proposed use.

(e) Legal description of the property (lot and block numbers if designated in plat book; metes and bounds description if any portion of the property does not have an assigned lot and block numbers).

(f) Property dimensions of the site and lot area.

(g) Existing streets located within or adjacent to the subject property

(h) The proposed size, elevations, location and arrangement of buildings, landscaping, screening and parking areas.

(i) The proposed arrangement of, and number of, streets, parking spaces, entrance and exit driveways, and their relationship to existing streets, alleys and other public property.

(j) Proposed control grades to indicate the intent of the developer.

(k) Adjacent properties, including the location and type of buildings and structures thereon.

(l) Any required and proposed screening walls, fences, retaining walls, headlight screens, dumpster screens or living screens. Include height and type of construction.

(m) Indicate all landscaped areas.

(n) The existing topography with contour intervals no greater than five feet (5') unless waived by the City Engineer.

(o) If the district is proposed in an unplatted area, the Site Development Plan shall be accompanied by a preliminary plat incorporating the boundaries of all property to be included in the area to be zoned.

(p) If development is to occur in phases, the phases which will be followed in the construction of the planned development, shall be indicated on the Site Development Plan.

(q) Additional requirements as to building setbacks, height and area limitations, landscaping, lighting, screening, accessways, driveways, signs or other advertising devices, and other like requirements may be imposed by the Planning and Zoning Commission for the protection of adjoining and surrounding properties.

4. Site Development Plan Approval. Should the property not be rezoned, any further development of the district property will require the preparation and submittal of a new Site Development Plan to the Planning and Zoning Commission for its review, and the subsequent preparation of a new plan. With approval of the new Site Development Plan, development of the property may proceed.

(a) Should the Site Development Plan comply with the intent and requirements set forth in this section, and planned district zoning be appropriate, the Planning and Zoning Commission may recommend an amendment to this Ordinance to establish a zoned district for the land covered by the plan.

(b) Should the City Council accept the favorable recommendation of the Planning and Zoning Commission, then the Council may rezone the land covered by the Site Development Plan.

(c) The developers of property shall submit a schedule of construction.

(d) If for any reason the developers fail to follow the construction time schedule, abandon the plan, or if the construction is terminated after the completion of any phase or at any stage, and there is evidence that further development is not contemplated, then the Site Development Plan shall be deemed void, and the City Engineer may initiate the rezoning of the property back to the original zoning of the property.

(e) After the Site Development Plan has been approved and the zoning change made, adjustments or rearrangement of buildings, parking areas, entrances, heights, setbacks, or open spaces requested in writing by the developers, may be approved by the City Engineer if the changes conform to the standards established by the Site Development Plan.

Section 10-207. General Regulations of Residential Districts.

a. Purpose. Residential Districts ensure stability of residential neighborhoods and promote the quality of life in these neighborhoods by separating residential uses from commercial and industrial uses, and preventing the intrusion of incompatible usage into residential areas.

b. Property Development Standards. The following property development standards shall apply to all land and buildings in residential districts. Specific lot sizes, setbacks and criteria which vary among individual residential districts are identified in Sections 10-208 through 10-218.

1. Compliance. Structures, both new and converted, shall comply with all current City ordinances.

2. Unlisted Uses. If an unlisted use is requested within any of the residential districts, it may be allowed only after approval is given according to Section 10-204 "Classification of Unlisted Uses".

3. Parking and Loading Facilities. Minimum Parking requirements shall be calculated according to Section 10-246, Parking and Loading Requirements.

4. Driveways and Sidewalks. All driveways and sidewalks shall be located and constructed according to the City driveway design standards and paving detail standards. In Chapter 6, Article X, or on file with the City Engineer.

5. Outdoor Display. No outdoor display shall be permitted other than approved signage.

6. Private Streets. Private Streets shall be permitted only within PUR, R-TH, and PMF Zoning Districts and approved as part of the Final Site Development Plan. Private streets shall be designed and constructed to meet City paving and design standards, (See Chapter 10, Article III, or on file with the City Engineer), and shall have a minimum of 28 feet of pavement width measured from face of curb to face of curb.

7. Setbacks. No part of a structure or building shall extend beyond the required setbacks, including but not limited to, overhangs and gutters unless specifically allowed by this ordinance.

8. Security and Privacy Devices which restrict vehicular traffic shall be designed and installed to not interfere with emergency vehicle access and may not be used unless approved and inspected by the Police and Fire Department.

Section 10-208. AG Agricultural District.

a. Purpose. To provide a location for land situated on the fringe of an urban area and used for agricultural purposes. The types and intensity of uses permitted in this district shall encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is determined.

b. Permitted Uses.

1. Single Family Residence, Detached
2. Church and Rectory
3. Farm, Ranch, Garden or Orchard
4. Park, Playground or Community Center
5. School, Public or Private
6. Public Facilities

See Use Chart Section 10-203 for complete listing of "AG" permitted and Special Uses.

c. District Development Regulations

1. No buildings or structures may be constructed, reconstructed or altered unless they conform to the District requirements.

2. All general and special agricultural, farming, ranching, stables, stock and poultry raising, dairy and other related uses are allowed so long as same do not cause a hazard to health by reason of unsanitary conditions; and no offense by reason of odors, dust, fumes, noise or vibration.

3. The keeping of livestock or fowl shall be in compliance with Code Chapter 14, "Animals and Fowl".

d. Height and Area Regulations

1. Residential Building Setback Requirements:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any residential structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') shall be required between any residential structure and the rear property line.

(c) A minimum side yard setback of seven and a half feet (7½') shall be required between all residential structures and the side property line. On a corner lot, the width of the yard along the side street shall not be less than twelve feet (12').

2. Setback Requirements for Buildings Used to House Stock, Poultry or Fowl

(a) A minimum one hundred foot (100') setback shall be required between any structure used to keep stock and any property line.

(b) A minimum fifty foot (50') setback shall be required between any structure used to keep poultry or fowl and any property line.

3. Maximum Lot Coverage. No more than thirty-five percent (35%) of the total lot area shall be covered by buildings.

4. Lot Area Regulations.

(a) A minimum lot area of 9,000 square feet shall be required.

(b) Each lot shall have a minimum of 35 feet of frontage on a dedicated public street.

5. Height Regulations. Buildings or structures located in this district shall not exceed two and one-half (2½) standard stories or forty-two feet (42') in height.

Section 10-209. R-1A Single Family Residential District

a. Purpose. To provide for the low density development of residential structures, on larger lots, constructed on-site for the purpose of providing adequate housing for one (1) family on one (1) lot.

b. Permitted Uses:

1. Single Family Residence, Detached
2. Church and Rectory
3. Park or Playground
4. School, Public or Private
5. Public Facilities

See Use Chart, Section 10-203 for complete listing of R-1A permitted and special uses.

c. District Development Regulations. No buildings or structures may be constructed, reconstructed or altered unless they conform to the District requirements.

d. Height and Area Regulations.

1. Building Setback Regulations:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') shall be required between any structure and the rear property line.

(c) A minimum side yard setback of seven and one-half feet (7½') shall be required between all structures and the side property line. On a corner lot, the width of the yard along the side street shall not be less than twelve feet (12').

2. Maximum Lot Coverage. No more than fifty percent (50%) of the total lot area shall be covered by buildings.

3. Lot Area Regulations.

(a) A minimum lot area of 9,000 square feet shall be required

(b) Each lot shall have a minimum of thirty-five feet (35') of frontage on a dedicated public street.

4. Height Regulations. Buildings or structures shall not exceed two and one-half (2½) standard stories or forty-two feet (42') in height.

Section 10-210. R-1B Single Family Residential District.

a. Purpose. To provide for the low density development of residential structures, on smaller lots, constructed on-site for the purpose of providing adequate housing for one (1) family on one (1) lot.

b. Permitted Uses:

1. Single Family Residence, Detached
2. Church and Rectory
3. Park or Playground
4. School, Public or Private
5. Public Facilities

See Use Chart, Section 10-203 for complete listing of R-1B permitted and special uses.

c. District Development Regulations. No buildings or structures may be constructed, reconstructed, or altered unless they conform to the District requirements.

d. Height and Area Regulations.

1. Building Setback Requirements:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') shall be required between any structure and the rear property line.

(c) A minimum side yard setback of six feet (6') shall be required between all structures and the side property line. On a corner lot, the width of the yard along the side street shall not be less than twelve feet (12').

2. Maximum Lot Coverage. No more than fifty percent (50%) of the total lot area shall be covered by buildings.

3. Lot Area Regulations

(a) A minimum lot area of 6,000 square feet shall be required.

(b) Each lot shall have a minimum of thirty-five feet (35') feet of frontage on a dedicated public street.

4. Height Regulations. Buildings or structures shall not exceed two and one-half (2½) standard stories or forty-two feet (42') in height.

Section 10-212. R-2 Two-Family Residential District (Duplex).

a. Purpose. To provide for areas of two-family development that are consistent in design and in development patterns with typical single family, detached development.

b. Permitted Uses.

1. Two-Family Residence
2. Church and Rectory
3. School, Public or Private
4. Public Facilities

See Permitted Use Chart, Section 10-203 for complete listing of R-2 permitted and special uses.

c. District Development Regulations.

1. No buildings or structures may be constructed, reconstructed or altered unless they conform to the District requirements.

2. Existing single-family structures located within a R-2 District are classified as legal non-conforming uses and are subject to the provisions of the Non-Conforming Use Regulations of this Ordinance.

d. Height and Area Regulations.

1. Building Setback Regulations:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') shall be required between any structure and the rear property line.

(c) A minimum side yard setback of five feet (5') shall be required between all structures and the side property line.

(d) On a corner lot, the width of the yard along the side street shall not be less than twelve feet (12').

(e) A minimum side yard setback of six (6) feet shall be required on any lot established after the effective date of this ordinance.

2. Maximum Lot Coverage. No more than fifty percent (50%) of the total lot area shall be covered by buildings.

3. Lot Area Regulations

(a) A minimum lot area of 6,000 square feet shall be required.

(b) A minimum lot area of 7,500 square feet shall be required for any lot established after the effective date of this ordinance.

(c) Each lot shall have a minimum of thirty-five feet (35') of frontage on a dedicated public street.

4. Height Regulations. Buildings or structures located in this district shall not exceed two and one-half (2½) standard stories or forty-two feet (42') in height.

Section 10-213. R-3 Multi-Family Residential District.

a. Purpose. To accommodate multi-family development at a density not to exceed twenty (20) residential units per acre providing sufficient areas for useable open space and landscaping.

b. Permitted Uses.

1. Multi-Family Residential
2. Nursing Home
3. Church and Rectory
4. School, Public or Private
5. Park or Playground
6. Public Facilities

See Permitted Use Chart, Section 10-203 for complete listing of R-3 permitted uses.

c. District Development Regulations.

1. No buildings or structures may be constructed, reconstructed or altered unless they conform to the District requirements.

2. R-3 Districts shall have direct access and/or frontage on major thoroughfares and no principle access to standard residential streets.

3. Existing single-family and two-family structures located within a R-3 District are classified as legal non-conforming uses and are subject to the provisions of the Non-Conforming Use Regulations of this Ordinance.

d. Height and Area Regulations.

1. Building Setback Regulations:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') shall be required between the main structure and the rear property line.

(c) A minimum side yard setback of twenty-five feet (25') shall be required between any structure and the side property line.

2. Maximum Density. Development shall be restricted to no more than twenty (20) dwelling units per acre.

3. Lot Area Regulations

(a) A minimum lot area of 12,500 square feet shall be required.

(b) Each lot shall have a minimum of forty-five feet (45') of frontage on a dedicated public street.

4. Separation of Buildings. A minimum separation of fifteen feet (15') shall be required between all structures.

5. Height Regulations. Buildings or structures shall not exceed two and one-half (2½) standard stories or forty-two feet (42') in height.

6. Minimum Open Space. Each lot or parcel of land, which is used for multi-family residences, shall provide on the same lot or parcel of land 300 square feet of useable open space per unit. Pools, tennis courts, walkways, patios and similar amenities may be located within areas designated as useable open space. Covered or underground easements with useable open space may be included as part of the recommended open space. Areas occupied by enclosed buildings (except gazebos and pavilions), street and alley rights-of-way and/or easements, drives, parking and drainage channels may not be included in calculating useable open space. Useable open space must be a minimum of fifteen feet (15') wide and have no slope greater than ten percent (10%).

Section 10-214. R-4 Multi-Family Residential District.

a. Purpose. To provide higher density multi-family developments not to exceed twenty- four (24) residential units per acre. This density will allow limited areas of useable open space that must be carefully designed for maximum accessibility and utilization by the residents of an R-4 development.

b. Permitted Uses.

1. Multi-Family Residence
2. Nursing Home
3. Church and Rectory
4. School, Public or Parochial
5. Park or Playground
6. Public Facilities

See Permitted Use Chart, Section 10-203 for complete listing of R-4 permitted uses.

c. District Development Regulations.

1. No buildings or structures may be constructed, reconstructed or altered unless they conform to District requirements.

2. R-4 Districts shall have access and frontage to major thoroughfares, with no principal access to standard residential streets.

3. Existing single-family and two-family structures located within a R-4 District are classified as legal non-conforming uses and are subject to the provisions of the Non-Conforming Use Regulations of this Ordinance.

d. Height and Area Regulations.

1. Building Setback Regulations:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') shall be required between the main structure and the rear property line.

(c) A minimum side yard setback of twenty-five feet (25') shall be required between any structure and the side property line.

2. Maximum Density. Development shall be restricted to no more than twenty-four (24) dwelling units per acre.

3. Lot Area Regulations.

(a) A minimum lot area of 12,500 square feet shall be required

(b) Each lot shall have a minimum of forty-five feet (45') of frontage on a dedicated public street.

4. Separation of Buildings. A minimum separation of fifteen feet (15') is required between all structures.

5. Height Regulations. Buildings and other structures shall not exceed fifty feet (50') in height at the minimum setback lines, but for each additional one foot (1') of setback in excess of the minimum required, the maximum height of the structure may be increased by one foot (1').

6. Minimum Open Space. Each lot or parcel of land which is used for multi-family residences shall provide on the same lot or parcel of land 300 square feet of useable open space per unit. Pools, tennis courts, walkways, patios and similar amenities may be located within areas designated as useable open space. Covered or underground easements with useable open space may be included as part of the recommended open space. Areas occupied by enclosed buildings (except gazebos and pavilions), street and alley rights-of-way and/or easements, drives, parking and drainage channels may not be included in calculating useable open space. Useable open space must be a minimum of fifteen feet (15') wide and have no slope greater than ten percent (10%).

7. Parking. Two (2) off-street parking spaces per dwelling unit.

Section 10-215. R-MH Manufactured Home Residential District

a. Purpose. To provide for the development of Manufactured Homes on individually platted lots or within Manufactured Housing Subdivisions, for the purpose of providing adequate housing in a coordinated well-designed urban setting.

b. Permitted Uses.

1. Manufactured Home when placed upon a platted lot and used for single family residential

2. Manufactured Home Parks may be permitted only through the issuance of a Special Use Permit as per section 10-245.

3. Public Facilities See Use Chart, Section 10-203 for complete listing of R-MH permitted and special uses.

c. District Development Regulations. 1.No buildings or structures may be constructed, reconstructed, or altered unless they conform to District requirements.

d. Height and Area Regulations.

1. Building Setback Requirements:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any structure and a dedicated street. A minimum fifteen foot (15') setback shall be required from any private street or drive.

(b) No manufactured home shall be located nearer than ten feet (10') to the rear line of any lot, plot, or tract on which such manufactured home is located and no manufactured home shall be located nearer than twenty-five feet (25') to any boundary line or district line of a manufactured home, R-MH District.

(c) No manufactured home shall be located nearer than ten feet (10) to the side of any lot, plot, or tract on which such manufactured home is located and all manufactured home stands shall be so located that a minimum of twenty feet (20') clearance shall exist between adjacent manufactured homes. Any accessory structure such as an awning, cabana, carport, storage cabinet, or porch which has a floor area of twenty-five (25) square feet or more shall be considered the same as a manufactured home for establishing the minimum side yard clearance.

(d) On a corner lot, the width of the yard along the side street shall not be less than fifteen feet (15').

(e) Accessory Buildings shall not be located nearer than ten feet (10') to any side or rear line of a plot, lot, or tract and shall be subject to the front yard requirements as above.

2. Lot Area Regulations.

(a) A minimum lot area of 6,000 square feet per unit shall be required

(b) Each lot shall have a minimum of thirty-five feet (35') of frontage on a public street.

3. Height Regulations.

(a) Buildings or structures shall not exceed 1 standard story or eighteen feet (18') in height.

(b) Permanent structures shall not exceed two stories or twenty five (25) feet in height.

Section 10-216. R-TH Townhouse Residential District.

a. Purpose. To provide for medium density, single family attached dwellings on individually platted lots. This type of residential housing is usually constructed in groups with a zero lot line and share a common wall with the adjacent dwelling unit.

b. Permitted Uses.

1. Single Family Residence, Attached
2. Church and Rectory
3. Park, Playground or Community Center
4. School, Public or Private

See Permitted Use Chart, Section 10-203, for complete listing of R-TH permitted and special uses.

c. District Development Regulations.

1. No buildings or structures may be constructed, reconstructed or altered unless they conform to District requirements.

2. Not more than six (6) townhouse units shall be attached in one (1) continuous row or group and no dwelling unit shall be constructed above another unit.

3. No portion of a townhouse or accessory structure, in or related to one (1) group of contiguous townhouses, shall be nearer than fifteen feet (15') to any portion of a townhouse or accessory structure of another townhouse group.

4. Each lot or tract of land shall provide usable open space totaling fifteen percent (15%) of the area of the lot or tract. The usable open space shall have a maximum slope of ten percent (10%) and shall be exclusive of street and alley rights-of-way and/or easements, individually platted lots without open space easements, private yards and patios. One-third of the total open space requirement may be provided off-site if approved on the Site Plan.

5. A Homeowners Association (HOA) shall be required for improving, operating and maintaining all jointly-owned open spaces, recreational areas and buildings, service and parking areas and private drives.

6. Both public and private streets shall be permitted.

d. R-TH Site Development Plan Requirements and Approval. See Section 10-206.

e. Height and Area Regulations.

1. Building Setback Regulations:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any structure and the front property line.

(b) A minimum rear yard of at least fifteen feet (15') feet shall be required between any structure and the rear property line.

(c) There shall be a side yard on each side of a continuous row or group of dwellings of not less than seven and one-half feet (7½'). A side yard adjacent to a side street shall not be less than twelve feet (12').

2. Maximum Lot Coverage. No more than sixty percent (60%) of the total lot area shall be covered by buildings.

3. Lot Area Regulations.

(a) A minimum lot area of 2700 square feet shall be required when on individually platted lots.

(b) Each lot shall have a minimum of twenty-five feet (25') of frontage on a dedicated public or private street.

4. Height Regulations. Buildings or structures shall not exceed two and one-half (2½) standard stories or forty-two feet (42') in height.

f. Streets. Both public and private streets shall be permitted.

Section 10-217. PUR Planned Unit Residential District.

a. Purpose. To provide for the medium to high density development of unique and innovative forms of detached single-family housing utilizing individually platted lots. A PUR development utilizes the total space within a development by creating common open spaces, scenic and recreational areas, and other spaces, which will compensate for the reduction of land area dedicated for the residential structure.

It is the intent of the PUR Planned Unit Residential District to provide for residential developments which utilize private streets, owned and maintained by a Homeowners Association. The PUR Development District is not intended as a convenience to circumventing regulations set forth in other Residential Districts, or as a tool for mass variance, without provisions of common areas.

Planned Unit Residential areas shall be restricted to development included in the approved site development plan and protected from the encroachment of unplanned and incompatible uses.

b. Permitted Uses.

1. Single Family Residences, Detached
2. Public Facilities

See Use Chart, Section 10-203 for complete listing of PUR permitted and special uses.

c. District Development Regulations.

1. No buildings or structures may be constructed, reconstructed or altered unless the building or structure conforms to District requirements.

2. A PUR district may be established only on a tract that is of single ownership or under unified control. The PUR district may not be established until the developer has complied with the site development requirements of this section.

d. PUR Site Development Plan Requirements and Approval. See Section 10-206.

e. Height and Area Regulations.

1. Building Setback Regulations

(a) Minimum front yard, side yard and rear yard setbacks shall be determined by the developer and subject to approval by the Planning and Zoning Commission and City Council as part of the Site Development Plan.

(b) On a corner lot, the width of the yard along the side street shall not be less than twelve feet (12').

2. Height Regulations Buildings or structures shall not exceed two and one-half (2½) standard stories or forty-two feet (42') in height.

Section 10-218. PMF Planned Multi-Family Residential District.

a. Purpose. To provide for the medium to high density development of unique and innovative forms of multi-family housing which includes, non-residential uses designed to serve the residents in and within close proximity to the developments. A PMF development utilizes the total space within a development by creating common open spaces, scenic and recreational areas, office, commercial areas, and other spaces, which will compensate for the reduction of land area dedicated for the residential/mixed use development.

It is the intent of the PMF Planned Multi-Family Residential District to provide for multi-family residential developments which are in close proximity to single-family and two- family residential districts which are developed in compliance with an approved site development plan. The PMF Development District is intended to be utilized for such uses as condominium, apartment and nursing home residential development while allowing for business which serve that community to be included in the design.

Planned Multi-Family Residential/Mixed Use areas shall be restricted to development included in the approved site development plan and protected from the encroachment of unplanned and incompatible uses.

b. Permitted Uses.

1. Condominiums
2. Apartments
3. Professional Offices

c. Special Use Permits

1. Retail
2. Restaurants

See Use Chart, Section 10-203 for complete listing of PMF permitted and special uses.

d. District Development Regulations.

1. No buildings or structures may be constructed, reconstructed or altered unless the building or structure conforms to the District requirements.

2. A PMF district shall be established only on a tract that is of single ownership or under unified control. The PMF district may not be established until the developer has complied with the site development requirements of this section.

3. No Maximum Density requirements.

4. Separation of Buildings. A minimum separation of fifteen feet (15') shall be required between all structures.

5. Minimum Open Space. Each lot or parcel of land, which is used for multi-family residences, shall provide on the same lot or parcel of land or adjacent land under unified control, 300 square feet of useable open space per unit. Pools, tennis courts, walkways, patios and similar amenities may be located within areas designated as useable open space. Covered or underground easements with useable open space may be included as part of the recommended open space. Areas occupied by enclosed buildings (except

gazebos and pavilions), street and alley rights-of-way and/or easements, drives, parking and drainage channels may not be included in calculating useable open space. Useable open space must be a minimum of fifteen feet (15') wide and have no slope greater than ten percent (10%).

6. At its discretion, the City Council may approve a decrease in the amount of required open space when the PMF plan includes unique design features or amenities which achieve an especially attractive and desirable development such as, but not limited to, terraces, sculpture, water features, preservation and enhancement of unusual natural features, or landscape sculpture (areas which are intensely landscaped).

e. PMF Site Development Plan Requirements and Approval. See Section 10-206.

f. Height and Area Regulations.

1. Building Setback Regulations

(a) Minimum front yard, side yard and rear yard setbacks shall be determined by the developer and subject to approval by the Planning and Zoning Commission and City Council as part of the Site Development Plan.

(b) On a corner lot, the width of the yard along the side street shall not be less than twenty-five feet (25').

2. Height Regulations Buildings or structures shall be determined by the developer and subject to approval by the Planning and Zoning Board and City Council as part of the Site Development Plan.

Section 10-219. General Regulations of Office and Educational Districts.

a. Purpose. To provide sufficient and suitable land area, at appropriate locations, to meet the community's present and anticipated needs for office and educational facilities throughout the City.

b. Property Development Standards. The following property development standards shall apply to all land and buildings in Office and Educational Districts. Specific lot sizes, setbacks and criteria which vary among individual office and educational districts are identified in Sections 10-220 through 10-223.

1. Compliance. Structures, both new and converted, shall comply with all City ordinances.

2. Unlisted Uses. If an unlisted use is requested within any of the residential districts, it may be allowed only after approval is given according to the procedures set out in Section 10-204, "Classification of Unlisted Uses".

3. Parking and Loading Facilities shall be calculated according to Section 10-246, Parking and Loading Requirements.

4. Driveways and Sidewalks shall be located and constructed according to the City Driveway Design Standards and Paving Detail Standards. In Chapter 6, Article X, or on file with the City Engineer.

5. Outdoor Lighting fixtures in the office and educational districts shall be placed and shielded so that the light emitted shall not illuminate onto adjacent residentially zoned districts.

6. Private Streets are permitted only within POD Zoning Districts and approved as part of the Final Site Development Plan. Private streets shall be designed and constructed to meet City paving and

design standards, (See Chapter 10, Article III., or on file with the City Engineer), and shall have a minimum of 28 feet of pavement width measured from face of curb to face of curb.

7. Setbacks. No part of a structure or building shall extend beyond the required setbacks, including but not limited to, overhangs and gutters unless specifically allowed by this ordinance.

8. Security and Privacy Devices which restrict vehicular traffic shall be designed and installed to not interfere with emergency vehicle access and may not be used unless approved and inspected by the Police or Fire Department.

Section 10-220 AR Adaptive Reuse District.

a. Purpose. To provide for the effective adaptive reuse of residential and other structures, located primarily in the City's older residential areas that are in transition from residential to other types of use, without destroying the essential residential character of the area, nor allowing a proliferation of heavier commercial uses to infiltrate the area. AR district zoning seeks to preserve the residential character of an area but allow uses other than residential.

b. Permitted Uses.

1. Single-Family Residence, Detached
2. Professional Office
3. Retail Shop
4. Personal Services
5. Church and Rectory
6. Public Facilities

See Use Chart, Section 10-203 for complete listing of AR permitted and special uses.

c. District Development and Use Regulations.

1. No buildings or structures may be constructed, reconstructed or altered unless they conform to District requirements.

2. No outdoor display other than approved signage.

d. Height and Area Regulations.

1. Building Setback Regulations

(a) A minimum front yard setback of twenty-five feet (25') between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') between the main structure and the rear property line.

(c) A minimum side yard setback of six (6') feet between any structure and the side property lines. On a corner lot, the width of the yard along the side street shall not be less than twelve feet (12').

(d) The location of an existing structure on a lot shall be taken into consideration as to the determination of the required setbacks prior to rezoning the lot AR.

2. Maximum Lot Coverage. No more than sixty percent (60%) of the total lot area shall be covered by buildings, including a maximum of thirty percent (30%) for accessory buildings and structures.

3. Lot Area Regulations.

(a) A minimum lot area of 7,000 square feet shall be required.

(b) Each lot shall have a minimum of thirty-five (35') of frontage on a dedicated public street.

(c) The existing lot size shall be taken into consideration as to the determination of the required lot size prior to rezoning the lot AR.

4. Separation of Buildings. A minimum separation of fifteen feet (15') shall be required between all buildings on the same lot.

5. Height Regulations. Building or structures shall not exceed two and one-half (2½) standard stories or forty-two feet (42') in height.

Section 10-221. ED Educational District.

a. Purpose. To provide for the development and regulation of certain educational facilities, both public and private, including classrooms, offices, assembly halls, cafeterias, dormitories, indoor and outdoor recreational facilities, physical plant and other similar facilities, that are consistent with the institution's primary purpose of providing secondary or higher education. Properties zoned ED district shall be restricted to educational use and protected from the encroachment of incompatible uses.

b. Permitted Uses.

1. Elementary Education Facilities, Public or Private

2. Secondary Education Facilities, Public or Private

3. University/College Facilities, Public or Private

4. Public Facilities

See Use Chart, Section 10-203 for complete listing of complete ED permitted and special uses.

c. District Development and Use Regulations.

1. No buildings or structures may be constructed, reconstructed or altered unless they conform to District requirements.

2. No outdoor display of merchandise or storage of materials shall be permitted in an ED district other than approved signage.

3. Special promotional devices may be temporarily displayed outdoors if approved by the City Engineer through issuance of a Temporary Use Permit (TUP).

d. Height and Area Regulations.

1. Building Setback Regulations

(a) A minimum setback of twenty-five feet (25') between any structure and the front property line, or the rear or side property lines adjacent to any public right-of-way.

(b) A minimum rear yard setback of ten feet (10') between the main structure and the rear property line except where abutting a residentially zoned district, and in that case, the minimum rear yard setback shall be at least twenty-five feet (25').

(c) A minimum side yard setback of seven and one-half feet (7½') between all structures and the side property lines except where abutting a residentially zoned district, and in that case, the minimum side yard setback shall be at least ten feet (10').

2. Maximum Lot Coverage. No more than sixty percent (60%) of the total lot area may be covered by buildings or structures in an ED district, including a maximum of thirty percent (30%) for accessory buildings or structures.

3. Lot Area Regulations

(a) A minimum lot area of five (5) acres shall be required.

(b) Each lot shall have a minimum of two hundred (200) feet of frontage on a dedicated public street.

4. Separation of Buildings. A minimum separation of fifteen feet (15') shall be required between all buildings on the same building site.

5. Height Regulations. Buildings and other structures shall not exceed forty-two feet (42') in height at the minimum setback lines, but for each additional one foot (1') of setback in excess of the minimum required, the maximum height of the structure may be increased by one foot (1').

Section 10-222. RPO Restricted Professional and Office District.

a. Purpose. To provide a buffer zone on the fringe of commercial areas, that permits office usage which will not be harmful nor significantly detract from the residential character of adjacent neighborhoods; for the conversion of residential properties that are located in an area in transition from residential to other types of usage, without destroying the overall residential character of the surrounding neighborhood, nor allowing a proliferation of strictly commercial uses in areas abutting arterial and/or collector streets which are, because of location and development trends, suitable for office development.

b. Permitted Uses.

1. Professional Office
2. Personal Services
3. Public Facilities

See Use Chart, Section 10-203 for complete listing of RPO permitted and special uses.

c. District Development and Use Regulations.

1. No buildings or structures may be constructed, reconstructed or altered in a RPO district unless they conform to District requirements.

2. No outdoor display other than approved signage.

3. Existing single-family and two-family structures located within a RPO District are classified as legal non-conforming uses and are subject to the Non-Conforming Use Regulations.

d. Height and Area Regulations.

1. Building Setback Regulations

(a) A minimum front yard setback of twenty-five feet (25') between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') between the main structure and the rear property line.

(c) A minimum side yard setback of six feet (6') between all structures and the side property lines.

(d) On a corner lot, the width of the yard along the side street shall not be less than twelve feet (12').

(e) A minimum front, rear and side yard setback of twenty-five feet (25') shall be required between any of the main structures and the front, rear and side property lines of any multi-building office complex.

2. Maximum Lot Coverage. No more than sixty percent (60%) of the total lot area shall be covered by buildings including a maximum of thirty percent (30%) for accessory buildings or structures.

3. Lot Area Regulations.

(a) A minimum lot area of 7,000 square feet of property shall be required.

(b) Each lot shall have a minimum of thirty-five feet (35') of frontage on a dedicated public street.

4. Height Regulations. Buildings or structures shall not exceed two and one-half (2½) standard stories or forty-two feet (42') in height.

Section 10-224. General Regulations of Commercial Districts.

a. Purpose. Commercial Districts are designed to promote stable commercial development, thereby strengthening the economic base of the City, and to protect the character of the individual districts and their suitability for particular commercial uses and to provide sufficient and suitable land area, at appropriate locations, to meet the community's present and anticipated needs for commercial development in the City's Central Business District and in the City's regional, community and neighborhood shopping centers, as well as for all other types of commercial and miscellaneous service facilities.

b. Property Development Standards. The following property development standards shall apply to all land and buildings in Commercial Districts. Specific lot sizes, setbacks, and criteria which vary among individual districts are identified in Sections 10-225 through 10-230.

1. Compliance. Structures both new and converted, shall comply with all City ordinances.

2. Unlisted Uses. If an unlisted use is requested within any of the Commercial Districts, it may be allowed only after approval is given according to Section 10- 204, "Classification of Unlisted Uses".

3. Parking. All uses of land in any Commercial District, except for some uses located in the C-3 Central Business District, shall be required to provide adequate off-street parking, sufficient in area and number of spaces to accommodate the parking demand generated by the particular use. Minimum parking requirements for every use in a Commercial District shall be calculated according to the Parking and Loading Requirements of this Ordinance. See Parking Group Table, Section 10- 245 for complete listing of parking requirements.

4. Loading Facilities. Certain permitted and special uses in Commercial Districts shall be required to provide off-street loading facilities in order to accommodate routine deliveries and/or shipments, including the routine arrival or departure of passengers in motor vehicles. Loading facilities which are required for certain permitted and special uses in a Commercial District shall be calculated according to the Parking and Loading Requirements, Section 10-246.

5. Driveway and Sidewalks shall be located and constructed according to the City Design Standards in Chapter 6, Article X or on file with the City Engineer.

6. Signage shall be located and constructed according to the Sign Regulation, Section 10-247

7. Outdoor Lighting fixtures shall be placed and shielded so that the light emitted shall not trespass onto adjacent residentially zoned districts.

8. Landscaping. All new developments shall be required to provide landscaping in compliance with the Landscape Ordinance, Chapter 10, Article III, Division C.

9. Private Streets are permitted only within "PCD" Planned Commercial Districts and approved as part of the Site Development Plan. Private streets shall be designed and constructed to meet City paving and design standards, (See Chapter 10, Article III, or on file with the City Engineer), and shall have a minimum of 28 feet of pavement width measured from face of curb to face of curb.

10. Setbacks. No part of a structure or building shall extend beyond the required setbacks, including but not limited to, overhangs and gutters unless specifically allowed by this ordinance.

11. Security and Privacy Devices which restrict vehicular traffic shall be designed and installed to not interfere with emergency vehicle access and may not be used unless approved and inspected by the Police or Fire Department.

Section 10-225. C-1 Light Commercial District.

a. Purpose. To provide for commercial development and business activities that are located at the edge of residential areas but which serve an area larger than nearby neighborhoods. Areas zoned C-1 Light Commercial District shall be restricted to commercial activities, primarily if not exclusively conducted indoors, with no outdoor display or storage of merchandise.

b. Permitted Uses.

1. Professional and General Offices
2. Retail Sales and Services
3. Restaurants
4. Financial Institutions
5. Public Facilities

See Use Chart, Section 10-203 for complete listing of C-1 permitted and special uses.

c. District Development and Use Regulations.

1. No buildings or structures may be constructed, reconstructed or expanded unless they conform to District requirements.

2. No forms of outdoor advertising, other than approved signage.

3. No outdoor display or storage of merchandise or materials.

4. Special sales merchandise or promotional devices and activities may be temporarily displayed or conducted outdoors, provided:

(a) The display or activity shall be limited to the private walk or parking area in front of the store.

(b) The special sales merchandise displayed outdoors, e.g., a "tent sale" or "parking lot sale", and its location, are approved by the City Engineer, through issuance of a Temporary Use Permit (TUP).

(c) The special promotional devices, or promotional activities, e.g., balloons, banners, etc., and their location, are approved by the City Engineer, through issuance of a Temporary Use Permit (TUP).

5. The sale of gasoline or other motor fuels shall be permitted, provided:

(a) That pump islands are located a minimum of fifteen feet (15') from any public right-of-way.

(b) That island canopy overhangs are located at least ten feet (10') from any public right-of-way, have a minimum height of twelve feet (12') and supportive posts of such canopies are located at least fifteen feet (15') from any public right-of-way.

d. Height and Area Regulations.

1. Building Setback Regulations

(a) A minimum front yard setback of twenty-five feet (25') between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') between the main structure and the rear property line.

(c) A minimum side yard setback of ten feet (10') between any structure and the side property line when abutting any residentially zoned district. On a corner lot, the yard along the side street shall not be less than fifteen feet (15').

2. Maximum Lot Coverage. No more than sixty percent (60%) of the total lot area shall be covered by buildings or structures.

3. Lot Area Regulations.

(a) A minimum lot area of 7,000 square feet shall be required.

(b) Each lot shall have a minimum of seventy feet (70') of frontage on a dedicated public street.

4. Separation of Buildings. A minimum separation of fifteen feet (15') shall be required between all buildings on the same lot.

5. Height Regulations. Buildings and structures shall not exceed two and one-half (2½) stories or forty-two feet (42') in height.

Section 10-226. C-2 General Commercial District.

a. Purpose. To provide for heavier commercial development that serves a City-wide and regional market area, and for establishments requiring outdoor display and storage of merchandise.

b. Permitted Uses.

1. Professional and General Offices
2. Retail Sales and Services
3. Restaurants
4. Financial Institutions
5. Automobile Dealerships
6. Public Facilities

See Use Chart, Section 10-203 for complete listing of C-2 permitted and special uses.

c. District Development and Use Regulation.

1. No buildings or structures may be constructed, reconstructed or expanded unless they conform District requirements.

2. No forms of outdoor advertising, other than approved signage.

3. The sale of gasoline and other motor fuels is permitted, provided:

(a) That pump islands are located a minimum fifteen feet (15') from any public right-of-way; and

(b) That island canopy overhangs are located at least ten feet (10') from any public right-of-way, have a minimum height of twelve feet (12') and that supportive posts of such canopies are located at least fifteen feet (15') from any public right-of-way.

4. Special promotional devices may be temporarily displayed outdoors if the device and its location are approved by the City Engineer through issuance of a Temporary Use Permit (TUP).

5. Servicing of vehicles and assembly of equipment conducted as a part of a sales operation shall be conducted within an area which provides adequate screening from public view and approved by the City Engineer.

6. Outdoor display of merchandise or storage of materials shall be permitted only in an enclosed, visually screened area.

7. Service stations may be used for the storage of rental trucks or trailers, if paved parking is provided for the trucks and trailers, and these rental vehicles do not occupy required off street parking spaces.

d. Height and Area Regulations.

1. Building Setback Regulations

(a) A minimum setback of twenty-five feet (25') between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') between the main structure and the rear property line.

(c) A minimum side yard setback of ten feet (10') between any structure and the side property line when abutting any residentially zoned district. On a corner lot, the yard along the side street shall not be less than fifteen feet (15').

2. Maximum Lot Coverage. No more than sixty percent (60%) of the total lot area shall be covered by buildings or structures.

3. Lot Area Regulations.

(a) A minimum lot area of 14,000 square feet shall be required.

(b) Each lot shall have a minimum of eighty feet (80') feet of frontage on a dedicated public street.

4. Separation of Buildings. A minimum separation of fifteen feet (15') shall be required between all buildings on the same lot.

5. Height Regulations. Buildings and other structures shall not exceed forty-five (45') feet in height at the minimum setback lines.

Section 10-227. C-3 Central Business District.

a. Purpose. To establish guidelines and controls for the development and redevelopment of the downtown area and the areas immediately adjacent which will ensure compatibility with the existing development and will enhance the economic, cultural and historical significance of downtown Bullard.

b. Permitted Uses.

1. Professional and General Offices
2. Retail Sales and Services
3. Restaurants
4. Financial Institutions
5. Public Facilities
6. Apartments and Townhouses

See Use Chart, Section 10-203 for complete listing of C-3 permitted and special uses.

c. District Development and Use Regulations.

1. No buildings or structures may be constructed, reconstructed or expanded unless they conform to District requirements.

2. No forms of outdoor advertising, other than approved signage.

3. Outdoor display of merchandise is permitted provided that all merchandise so displayed is located on private property.

4. The sale of gasoline and other motor fuels is permitted, provided:

(a) That pump islands are located a minimum of fifteen feet (15') from any public right-of-way; and

(b) That island canopy overhangs are located at least ten feet (10') from any public right-of-way, have a minimum height of twelve feet (12') and that supportive posts of such canopies are located at least fifteen feet (15') from any public right-of-way.

5. Special sales merchandise or promotional devices and activities may be temporarily displayed or conducted outdoors, if the display, device and/or activity and the location are approved by the City Engineer through issuance of a Temporary Use Permit (TUP).

d. Height and Area Regulations.

1. Building Setback Requirements. None

2. Maximum Lot Coverage. One hundred percent (100%)

3. Lot Area Regulations. None

4. Separation of Buildings. None here, but structures shall be designed, located and constructed according to the provisions of the Building and Fire Codes, which may require a minimum separation.

5. Height Regulations. None

Section 10-231. General Regulations of Industrial Districts.

a. Purpose. To promote stable light to heavy industrial development and to protect the character of the individual districts and their suitability for particular industrial uses and to provide sufficient and suitable land area, at appropriate locations, to meet the community's present and anticipated needs for industrial development while protecting the health, safety, and welfare of the public.

b. Property Development Standards.

The following property development standards shall apply to all land and buildings in Industrial Districts. Specific lot sizes, setbacks, and criteria which vary among individual districts are identified in Sections 10-232 through 10-234.

1. Compliance. Structures both new and converted, shall comply with all City ordinances.

2. Unlisted Uses. If an unlisted use is requested within any of the Industrial Districts, it may be allowed only after approval is given according to Section 10-204 "Classification of Unlisted Uses".

3. Parking. All uses of land in any Industrial District shall provide adequate off-street parking, sufficient in area and number of spaces to accommodate the parking demand generated by the particular use. Minimum parking requirements for every use in an Industrial District shall be calculated according to the Parking and Loading Requirements of this Ordinance. See Parking Group Table, Section 10-246 for complete listing of parking requirements.

4. Loading Facilities. Certain permitted and special uses in Industrial Districts shall be required to provide off-street loading facilities in order to accommodate routine deliveries and/or shipments, including the routine arrival or departure of passengers in motor vehicles. Loading facilities which are required for certain permitted and special uses in an Industrial District shall be calculated according to the Parking and Loading Requirements, Section 10-246.

5. Driveways and Sidewalks shall be located and constructed according to City Design Standards in Chapter 6, Article X, or on file with the City Engineer.

6. Signage shall be located and constructed according to the Sign Regulations, Section 10-247.

7. Outdoor Lighting fixtures shall be placed and shielded so that the light emitted shall not shine directly onto adjacent residentially zoned districts.

8. Landscaping. All new developments provide landscaping in compliance with the Landscape Ordinance. Chapter 10, Article III., Division C.

9. Security and Privacy Devices which restrict vehicular traffic shall be designed and installed to not interfere with emergency vehicle access and may not be used unless approved and inspected by the Police and Fire Department.

Section 10-232. M-1 Light Industrial District.

a. Purpose. To provide for the location and development of low impact industries and supporting commercial and public uses, which generate relatively low levels of noise, smoke, odor, dust, or intense light. These industrial and manufacturing uses may require good accessibility to air, rail or street transportation routes.

b. Permitted Uses.

1. Product Assembly Plants
2. Warehousing / Distribution Facilities
3. Research and Development Facilities
4. Sexually Oriented Business (Subject to SOB Code Compliance)
5. Public Facilities

See Use Chart, Section 10-203 for complete listing of M-1 Permitted and Special Uses.

c. District Development and Use Regulations.

1. No buildings or structures may be constructed, reconstructed or altered unless they conform to district requirements.

2. Service stations may openly display merchandise commonly sold by such operations, provided that the display does not extend to a height greater than that of the front facade of the main building, nor the vertical area of the display, exceed fifty percent (50%) of the vertical area of the front facade of the main building. Such outdoor display of merchandise may not occupy areas needed for parking or on-site vehicle maneuvering.

3. Outdoor storage of equipment, materials and merchandise for sale on the premises is permitted. Outdoor storage of equipment, materials or merchandise not actively offered for sale shall be surrounded by an opaque screen which restricts their view from the public.

4. No manufacturing, assembly, repair or work activity, other than permitted storage or sales, shall take place outside the confines of an enclosed building.

5. Areas used for outdoor storage or display shall be maintained so that excessive dust, fumes or odors will not be produced by continued use.

6. No required parking spaces or loading areas shall be used as a display or sales area.

7. No public sidewalk or street right-of-way shall be used for display.

8. Gasoline sales are permitted under the following conditions:

(a) Pump islands shall be located a minimum of fifteen feet (15') from any public right-of-way.

(b) Island canopy overhangs shall be located at least ten feet (10') from any public right-of-way and shall be required to have a minimum height of twelve feet (12'). Supportive posts of such canopies shall be located at least fifteen feet (15') from any public right-of-way.

9. Service stations may be used for the storage of rental trucks or trailers, if paved parking is provided for the trucks and trailers, and these rental vehicles do not occupy required off street parking spaces.

d. Height and Area Regulations.

1. Building and Setback Regulations:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any structure and the front property line.

(b) A minimum rear yard setback of twenty-five feet (25') shall be required between any structure and the rear property line.

(c) A minimum side yard setback of twenty-five feet (25') shall be required between any structure and the side property line which abuts property zoned for residential use.

2. Maximum Lot Coverage. No more than fifty percent (50%) of the total lot area may be covered by buildings or structures.

3. Lot Area Regulations.

(a) A minimum lot area of 15,000 square feet shall be required.

(b) Each lot shall have a minimum of eighty (80) feet of frontage on a dedicated public street.

4. Separation of Buildings. A minimum separation of fifteen feet (15') feet is required between all buildings or structures on the same lot.

5. Height Regulations. Buildings or structures shall not exceed forty-five feet (45') feet in height at the minimum setback lines, but for each additional one foot (1') of setback in excess of the minimum, the maximum height of the structures may be increased by one foot (1').

Section 10-233. M-2 General Industrial District.

a. Purpose. To provide for location and development of medium impact industries and supporting commercial and public uses, which may generate relatively low levels of noise, odor, smoke, dust, or intense light. These industrial and manufacturing uses may require good accessibility to air, rail or street transportation routes. Provision is also made for outdoor operations and storage.

b. Permitted Uses.

1. Processing Facilities
2. Product Assembly Facilities
3. Manufacturing Facilities
4. Warehousing Facilities
5. Public Facilities

See Use Chart, Section 10-203 for complete listing of M-2 Permitted and Special Uses.

c. District Development and Use Regulations.

1. No buildings or structures may be constructed, reconstructed, or altered unless they conform to district requirements.

2. Service stations may openly display merchandise commonly sold by such operations, provided that the display does not extend to a height greater than that of the front facade of the main building, nor the vertical area of the display, exceed fifty percent (50%) of the area of the front facade of the main building. Such outdoor display of merchandise may not occupy areas required for parking or for on-site vehicle maneuvering.

3. Service stations may be used for storage of rental trucks or trailers, if paved parking is provided for the trucks and trailers, and these rental vehicles do not occupy required off street parking spaces.

4. Outdoor display and storage of equipment, materials or merchandise, not actively offered for sale on-site, shall be surrounded by an opaque screen which restricts the public view of the stored items.

5. Manufacturing, assembly, repair or other work activity, conducted beyond the confines of an enclosed building, shall be surrounded by a sight-proof screen which restricts the public view of the activity.

6. Areas used for outdoor storage or display shall be maintained so that excessive dust, fumes and odors will not be produced by continued use.

7. No required parking lot area shall be used as a display or sales area.

8. No public sidewalk or street right-of-way shall be used for display.

9. All residential uses prohibited, except sleeping facilities required by security personnel employed upon the premises.

10. A permanent opaque screening fence, wall or landscaped buffer shall be provided along any side or rear property line which abuts property zoned for residential purposes. The opaque screening fence shall be a minimum height of six feet (6'), measured from finished grade to the top of the screen. All fences and buffer areas shall be maintained in a safe and orderly condition.

11. Gasoline sales are permitted under the following conditions:

(a) Pump islands shall be located a minimum of fifteen feet (15') from any public right-of-way.

(b) Island canopy overhangs shall be located at least ten feet (10') from any public right-of-way and shall have a minimum height of twelve feet (12'). Supportive posts of such canopies shall be located at least fifteen feet (15') from any public right-of-way.

d. Height and Area Regulations.

1. Building Setback Regulations:

(a) A minimum front yard setback of twenty-five feet (25') shall be required between any structure and the front property line.

(b) A minimum rear yard setback of at least twenty-five feet (25') shall be required between any building or structure and the rear property line.

(c) No minimum side yard setback shall be required except where abutting a residentially zoned district, and in that case, a minimum side yard setback of twenty-five feet (25') shall be required along that property line.

2. Maximum Lot Coverage. No more than sixty percent (60%) of the total lot area may be covered by buildings or structures.

3. Lot Area Regulations

(a) A minimum lot area of 15,000 square feet shall be required.

(b) Each lot shall have a minimum of eighty feet (80') of frontage on a dedicated public street.

4. Separation of Buildings. A minimum separation of fifteen feet (15') shall be required between all buildings or structures on the same lot.

5. Height Regulations. Buildings or structures shall not exceed forty-five feet (45') in height at the minimum setback lines, but for each additional one foot (1') of setback in excess of the minimum, the maximum height of the structures may be increased by one foot (1') including properties which are allowed zero (0) setbacks.

Section 10-234. M-3 Heavy Industrial District.

a. Purpose. To provide for location and development of high impact industries and uses which may produce objectionable emissions or involve potential hazards, which therefore, cannot be reasonably expected to conform to more restrictive regulations of the light and general industrial districts, but which are essential to the economic viability of the City. Industrial uses which generate relatively high levels of noise, vibration, smoke, dust,

odor, or have objectionable site conditions, are restricted to the M-3 district. The industrial uses permitted in the M-3 district are generally incompatible with commercial and residential uses.

b. Permitted Uses.

1. Oil/Gas Treatment/Processing Plant
2. Animal Slaughtering/Tanning Plant
3. Industrial Incinerator
4. Public Facilities

See Use Chart, Section 10-203 for complete listing of M-3 Permitted and Special Uses.

c. District Development Regulations.

1. No buildings or structures may be constructed, reconstructed, or altered unless they conform to district requirements.

2. Some M-3 usage may require approval of the Smith/Cherokee County Health District, the City Fire Marshal and/or other Federal, State and County regulatory agencies. The City may require additional restrictions designed to protect the public health, safety and welfare.

3. The following specific uses are governed by Number 2 above:

(a) Automobile or equipment salvage yard;

(b) Building material salvage yard;

(c) Salvage yard for any kind of material;

(d) Scrap metal storage yard;

(e) Used building materials storage yard; and

(f) Any other operation which in the opinion of the City Engineer is similar in operation or appearance to the uses listed above.

4. All uses listed in Number 3, (a) through (f) above, shall conform to the following specific regulations as well as the bulk and area regulations.

(a) Required Screening

(1) All such uses shall be completely enclosed by an eight foot (8') high solid fence of redwood, fiberglass, aluminum, masonry, or materials approved by the City Engineer, provided, however, that gate(s) for ingress and egress are permitted.

(2) The height of the fence may be reduced to six feet (6') when the use is conducted at an elevation two feet (2') or more above the crown of the adjacent roadway.

(3) Further provided that a steel mesh fence may be substituted for a solid fence along the rear property line and up to the rear 3/4 of the side property lines when the use abuts a manufacturing zone and the rear portion is not visible from a public street or road, the view of which shall be determined by the Building Official.

(b) The burning of wrecked or discarded automobiles, trucks or other equipment, or any parts thereof, is prohibited.

(c) No debris, parts, disabled vehicles or salvage material of any kind shall be stored outside the confines of the fenced area.

(d) No advertising, signage or display which utilizes salvage materials of any kind shall be displayed outside or above the fence.

(e) In no case shall any provisions of this Ordinance be interpreted to permit use of discarded, disabled or wrecked automobiles, trucks, equipment, appliances or parts to be used for advertising, signage or for identification purposes.

(f) Whenever an owner or representative of a non-conforming use under this Ordinance is granted M-3 zoning, such person shall have six (6) months in which to bring the existing use into compliance with this Section.

5. Fences erected in compliance with this Section which are adjacent to street right-of-way(s) and/or residential or commercial districts, shall be erected under the following guidelines:

(a) Fences adjacent to arterial or collector streets, where entrance is provided from said street, must be setback sixty feet (60') from said right-of-way.

(b) Fences adjacent to arterial or collector streets, where no entrance is provided from said street, must be setback twenty feet (20') from said right-of-way.

(c) Fences adjacent to a local street, where entrance is provided from said street, must be set back twenty feet (20').

(d) Fences adjacent to a local street, where no entrance is provided from said street, may be located on the property line adjacent to said right-of-way.

(e) The first twenty feet (20') of setback adjacent to a street as required above, shall be landscaped with trees, shrubbery or seeded lawn and maintained in an acceptable appearance.

(f) Whenever a required fence is adjacent to a residentially or commercially zoned district, the fence shall be setback twenty-five feet (25'), and the setback shall be landscaped with trees, shrubbery or seeded lawn.

(g) All fences and buffer areas shall be properly maintained.

6. Areas used for outdoor storage or display shall be maintained so that excessive dust, fumes or odors will not be produced by continued use.

7. No required parking lot area shall be used as a display or sales area.

8. No public sidewalk or street right-of-way shall be used for display.

9 Gasoline sales are permitted under the following conditions:

(a) As an accessory operation in conjunction with a bulk storage facility.

(b) Pump islands shall be located a minimum of fifteen feet (15') from any public right-of-way.

(c) Island canopy overhangs shall be located at least ten feet (10') from any public right-of-way and shall have a minimum height of twelve feet (12'). Supportive posts of canopies shall be located at least fifteen feet (15') from any public right-of-way.

10. All residential uses prohibited, except sleeping facilities required by security personnel employed upon the premises.

d. Height and Area Regulations.

1. Building Setback Regulations:

(a) A minimum front yard setback of one hundred twenty-five feet (125') shall be required between any structure and the front property line.

(b) A minimum rear yard setback of one hundred twenty-five feet (125') shall be required between the main structure and the rear property line.

(c) A minimum side yard setback of one hundred and twenty-five feet (125') between any structure and the side property line when abutting any residentially zoned district. On a corner lot, the yard along the side street shall not be less than twenty-five feet (25').

2. Maximum Lot Coverage. No more than sixty percent (60%) of the total lot area may be covered by buildings or structures.

3. Lot Area Regulations.

(a) A minimum lot area of 43,560 square feet (1 acres) shall be required.

(b) Each lot shall have a minimum of 80 feet of frontage on a dedicated public street.

4. Separation of Buildings. A minimum separation of twenty-five feet (25') shall be required between all buildings or structures on the same lot.

5. Height Regulations. Buildings or structures shall not exceed a maximum height of ninety feet (90') at the minimum setback lines, but for each additional one foot (1') of setback in excess of the minimum, the maximum height buildings or may be increased one foot (1') including properties with zero (0) setbacks.

Section 10-235. Height and Area Exceptions and Modifications.

a. Height.

1. The height regulations prescribed herein shall not apply to television or radio towers, television antennas, church spires, belfries, storage tanks, water and fire towers, stage towers or scenery lofts, cooling towers, chimneys, elevator and air conditioning penthouses and skylights.

2. The limitation on number of stories shall not apply to buildings used exclusively for storage purposes provided such buildings do not exceed the maximum height permitted in the district in which they are located.

b. General Area Exceptions and Modifications.

1. Every part of a required yard shall be open to the sky, unobstructed by buildings or other structures, except for accessory structures in a rear yard, and except for the ordinary projection of sills, belt courses, cornices and ornamental features, not to exceed twenty-four inches (24").

2. Open or lattice enclosed fire escapes, required by law, projecting into a required yard not more than five feet (5'), and the ordinary projection of chimneys and pilasters, shall be permitted by the Building Official when placed so as not to obstruct light and ventilation.

3. Terraces, uncovered porches and ornamental features which do not extend more than twenty four inches (24") above the floor level of the ground (first) story, may project into a required yard, provided these projections are at least two feet (2') from the adjacent lot lines.

4. Where a lot or tract is used for educational, institutional, hotel, commercial, industrial or multi-family purposes, more than one main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements for the district in which the lot or tract is located.

c. Front Yards.

1. The front yards heretofore established in all C-1, C-2, C-3, C-4 and RPO Districts shall be adjusted in the following cases:

(a) Where forty percent (40%) or more of the frontage on the same side of street between two intersecting streets is presently developed or may hereafter be developed with buildings that have, with a variation of five feet (5') or less, a front yard greater or lesser in depth than here required, new buildings shall not be erected closer to the street than the average front yard so established by the existing buildings.

(b) Where forty percent (40%) or more of the frontage on one side a street between two intersecting streets is presently developed with buildings that do not have a front yard as described above, then:

(1) Where a building is to be erected on a parcel of land that is within 100 feet (100') of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent building on each side; or

(2) Where a building is to be erected on a parcel of land that is within 100 feet (100') of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

(c) Interior lots having a frontage on two streets shall provide the required front yard on both streets.

2. The front yards heretofore established in AG, R-1A, R-1B, R-1C, R-MH and R-2 districts shall be adjusted in the following cases:

(a) If forty percent (40%) or more of the lots on the same side of a street, between the intersection of that street and two other streets or cul-de-sac, are developed with buildings, then the minimum front yard setback requirement on that side of the street shall be established by the existing building with the least front yard setback.

(b) Notwithstanding the provisions of Number 1 above, a front yard setback shall not be required which is greater than fifty feet (50').

(c) Through lots having frontage on two streets shall observe the required front yard setback on both streets regardless of which street frontage is deemed to be the "front yard" and the other the "rear yard" due to orientation of the main structure(s).

d. Side Yards. The side yards heretofore established shall be adjusted in the following cases:

(1) For the purpose of side yard regulations, a two-family dwelling, or a multi-family dwelling, shall be considered as one (1) building occupying one (1) lot.

(2) Where a lot of record at the time of the passage of this Ordinance has a width of less than fifty feet (50'), the side yard on each side of a building may be reduced to a width of not less than ten percent (10%) of the width of the lot, but in no instance, shall it be less than five feet (5').

(3) A porte cochere, carport, or canopy may project into a required side yard provided every part of such porte cochere, carport, or canopy is unenclosed except for necessary structural supports and not less than five feet (5') from any side lot line.

e. Rear Yards.

The rear yards heretofore established shall be adjusted where an industrial or commercial lot abuts on a railroad right-of-way and is served by a spur tract, no rear yard shall be required.

Section 10-236. Accessory Buildings / Structures.

a. Purpose. To provide for accessory buildings or structures which are subordinate buildings of which the use is incidental or secondary to that of the dominant or primary use of the main building or land.

b. Required Conditions.

1. No accessory building or structure may be constructed upon a lot until the construction of the main building has actually been commenced, and no accessory building or structure shall be used unless the main building on a lot is completed and occupied.

2. An accessory building or structure located closer than ten feet (10') to the main building shall be regarded as part of the main building for the purpose of determining the side and rear yards.

3. Accessory buildings or structures shall not occupy more than thirty percent (30%) of the required rear yard and shall not be nearer than five feet (5') from any side or rear lot line, except that when a garage is entered from an alley, it shall not be located closer than five feet (5') to the rear alley line.

4. An accessory building or structure located within twenty-five feet (25') of the rear lot line on corner lots shall not be closer than twenty-five feet (25') from the side street.

5. No accessory buildings or structure shall be used for dwelling purposes.

6. Accessory buildings or structure shall not exceed sixteen feet (16') in height.

7. No accessory building shall project beyond a required side yard setback line along any street.

Section 10-237. Broadcasting and Communication Towers/Antennas.

a. Purposes. The purposes of this ordinance are:

1. To provide for broadcasting or reception towers or antennas situated on non-residential sites that are intended for transmitting or receiving television, radio, cellular, or telephone communications.
2. To establish guidelines for the placement of towers and antennas.
3. To encourage the joint use of new and existing tower sites.
4. To balance the need of providers of telecommunications services to provide quick, effective, and efficient service with the safety and welfare of the public pursuant to federal law.

b. The regulations set forth in this Section, or elsewhere in this Ordinance, when referred to in this Ordinance, govern Broadcasting and Communication Towers/Antennas in all non-Residential Districts.

c. Required Conditions. Any commercial, radio, television, cellular, or microwave towers, reflectors, antennas, or support structures constructed after the effective date of this ordinance (May 1, 2006) are prohibited in Residential districts.

d. Special Use Permit and Site Plan Required. Broadcasting and Communications Towers or Antennas may not be constructed unless the Planning and Zoning Commission has reviewed, and City Council has approved, a Special Use Permit (SUP) and site plan. The following procedure shall apply:

1. Any person wishing to construct a new Broadcasting or Communication tower/antenna shall make application to the Planning and Zoning Department for a Special Use Permit pursuant to Section 10-245. A detailed Site Plan shall be submitted with the SUP application for each tower/antenna location, and shall contain the following:

- (a) Location of proposed tower/antenna, including the zoning and land use of adjacent property.

- (b) All significant structures within one half (1/2) mile of the proposed tower/antenna location. Significant structures include all publicly or privately owned buildings or structures (excluding utility poles) or street or traffic light standards, that are equal to or greater than twenty (20) feet below the requested antenna height. This information will be used to determine where co-location sites exist in lieu of the construction of new towers/antennas.

- (c) Propagations for the area as provided for the initial site determination (if applicable).

- (d) Photo or Architectural Simulation of the proposed tower/antenna development site from adjacent properties and rights-of-way.

- (e) A detailed Landscape/Screening Plan to include the complete pad site. The landscape/screening plan shall be consistent with the design and material of the surrounding properties. Additional requirements as to landscaping, lighting, screening, accessways, driveways, signs, and other like requirements may be imposed by the Planning and Zoning Commission and City Council for the protection of adjoining and surrounding properties.

- (f) Name, address, and telephone number of the person or entity responsible for removal of a tower/antenna in the event of abandonment. Should any of this information change after a

SUP has been approved, such updated information shall be provided to the Planning and Zoning Department within ten (10) days.

(g) Copies of FAA application or approval.

(h) Explanation justifying the requested height of the tower/antenna.

(i) Written confirmation from owners or authorized agents or structures identified as significant according to subsection 1(b) above that details the reason(s) why the proposed tower/antenna cannot be co-located on a significant structure or building.

(j) Engineering documents verifying new towers are able to accommodate no less than three (3) but not more than five (5) carriers based on structural data.

(k) Adequate land area shall be provided to accommodate up to three (3) carriers but no more than five (5).

2. The application shall be placed on the next available meeting of the Planning and Zoning Commission for review. Any decision by the Commission to deny a Special Use Permit for a tower or antenna shall be in writing and supported by substantial evidence contained in a written record. Pursuant to Section 10-250.b.7, the denial of a SUP may be appealed to the City Council.

3. Upon appeal, the application for a SUP for a tower/antenna shall be placed on the next scheduled City Council meeting designated for hearing zoning matters. The City Council shall approve or deny the application for the SUP for a tower/antenna no later than ninety (90) days after the original filing with the City Manager. If the application is not denied within said ninety (90) day period, then the application shall be deemed to be approved. Any decision by the City Council to deny a Special Use Permit for a tower/antenna shall be in writing and supported by substantial evidence in a written record.

e. Administrative Approval for Changes to Existing Towers/Antennas. Broadcasting and Communication Towers or Antennas which are to be constructed on previously permitted towers, antennas, buildings, or structures within any zoning district shall not require a Special Use Permit and may be approved by the City Engineer subject to the following:

1. The City Manager shall approve or reject the request within thirty (30) days after the filing of the request with the City Manager. If the application is not denied within the thirty (30) day period, then it shall be deemed approved.

2. Written record. Any decision by the City Manager to deny a request for a change or alteration to a previously permitted tower, antenna, building, or structure shall be in writing and supported by substantial evidence contained in a written record. The written decision of denial by the City Manager shall also indicate that the applicant may appeal, within ten (10) days, the decision of the City Manager to the Planning and Zoning Commission and the City Council. In the event of such an appeal, the provisions of subsection d. shall govern.

3. If the tower or antenna will increase the overall height of the existing tower, antenna, building, or structure by more than fifteen (15) feet, then a Special Use Permit shall be required and the provisions of subsection d. shall govern.

4. All requirements and provisions in subsection d. are provided so that the City Engineer is able to ensure that all permitted collocation sites adhere to current safety and aesthetic standards.

f. Tower/Antenna Height.

1. No commercial radio, television, cellular, or microwave reflector tower/antenna or support structure shall exceed 150 feet in height. Tower/antenna height is approved as part of the SUP or administrative approval process under this Section.

2. Publicly owned towers/antennas shall not be subject to maximum height requirements.

g. Entire Lot. For purposes of determining whether the installation of a tower/antenna complies with district development regulations, setback requirements, and other zoning regulations, the dimensions of the entire lot shall control, even though the towers/antennas may be located on portions of such lots.

h. Antenna Support Structure:

1. Towers/antennas and required accessory buildings located within Commercial and Industrial zoned Districts shall comply with the building setbacks for the specific Zoning District.

2. A minimum setback for towers/antennas and required accessory buildings equal to the height of the tower/antenna shall be required from any Residential Zoning District line.

i. Grandfathered Towers/Antennas. Any tower or antenna lawfully existing on the effective date of this ordinance (May 1, 2006) may continue to exist under the standards existing at the time that the tower/antenna was originally permitted. However, any changes or alterations to such previously permitted towers/antennas shall be subject to this ordinance.

j. Federal Requirements. All towers/antennas must meet current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other federal agency having authority to govern towers/antennas.

k. Abandoned Towers/Antennas. Any tower/antenna that has not been in operation for a continuous period of twelve (12) months shall be considered abandoned, and the owner or person in control shall remove the same within ninety (90) days after receipt of written notice from the City. If such tower/antenna is not removed within said ninety (90) days, the City may remove such tower/antenna at the owner's expense. If there are multiple users on a single tower/antenna, then there shall not be a requirement to remove a tower pursuant to this subsection until all such users cease using the tower/antenna.

l. Public towers/antennas. All publicly owned antennas or communications structures shall be permitted in any district, provided that a license, lease, or other form of approval has been obtained from the City.

Section 10-238. Television Satellite Dish Regulations.

a. Purpose. To provide for installation of satellite dish antennas designed or used for reception of television or other electronic communications broadcast or relayed from an earth satellite.

b. Required Conditions.

1. Administrative approval of Site Plan by Building Official.

2. It may be a solid, open mesh or bar configured structure, typically eight feet (8') to twelve feet (12') in diameter, in the shape of a shallow dish or parabola.

3. A satellite dish antenna may be located in a residentially zoned district if it complies with the following conditions:

(a) The dish is ground-mounted;

(b) The dish is not located in a front yard; or in the front yard or exterior side yard of a corner lot; or in the front yard or exterior rear yard of a through lot.

(c) The dish complies with the setback requirements for accessory structures for the district in which it is located.

(1) Satellite dishes which are attached to a structure shall be considered a part of the structure.

(2) Satellite dishes which are freestanding shall be considered an accessory building.

(d) The dish does not exceed twelve feet (12') in height above the existing grade.

(e) Only one satellite dish antenna shall be permitted per lot.

(f) Satellite dish antennas with a diameter measuring less than one (1) meter (3.28 ft.) may be installed in a manner consistent with typical television antennas.

(g) Satellite dish antennas in residentially zoned districts shall be used only for private, non-commercial purposes.

3. All satellite dish antennas, in any zoning district, constructed and erected prior to the effective date of this Ordinance, which do not conform to this Section shall be accepted as non-conforming antennas and shall be subject to this Ordinance.

Section 10-239. Private Clubs.

a. Private Clubs shall be located only in districts zoned C-1, C-2, C-3, C-4, M-1, M-2, and M- 3.

b. Parking and Loading Requirements shall be calculated according to Section 10-246 Parking and Loading Requirements.

c. Location Restrictions.

Private clubs may not be located within three hundred feet (300') feet of a church, public school or public hospital.

1. The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of the distance between the place of business where alcoholic beverages are sold and the public schools shall be from the nearest property line of the public school to the nearest doorway by which the public may enter the place of business, along street lines and in direct line across intersections. For any permit or license covering a premise where minors are prohibited from entering the premises under Section 109.53, Alcoholic Beverage Code, the measurement of the distance between the premises and a public school shall be along the property lines of the street fronts and from front door to front door, and in a direct line across intersections.

2. Application of distance requirements: If at the time an original alcoholic beverage permit or license is granted for the premises, the premises satisfies the requirements regarding distance from schools,

churches and hospitals in effect at that time, the premises shall be deemed to satisfy the distance requirements for all subsequent renewals of a license or permit. This includes any requirements which would come into play on the sale or transfer of the premises or the business on the premises in which new original alcoholic beverage licenses or permits are required

Section 10-240. Day Care Center (Children Or Adult)

a. Purpose. To provide for day care facilities, licensed by the State, under public or private auspices, which cares for four (4) or more children or adults who are apart from their own family or relations during a part of the day.

Day care centers are commercial operations located within shopping malls, shopping centers, freestanding buildings, or similar facilities.

The regulations set forth in this Section, or elsewhere in this ordinance, when referred to in this ordinance, govern day care centers.

b. Required Conditions. The operator of a Day Care Center shall obtain administrative approval showing compliance with the following:

- . A day care center shall be permitted only in districts zoned: AR, ED, CHS, C-1, C-2, C-3, C-4, and PCD.
2. Day care centers are a permitted use by right if operated by an organized churches, companies, and industries and within the building complex of said organization. However, Site Plan approval is required.
3. No day care center shall be part of a single-family or multi-family dwelling.
4. A solid wall or fence a minimum of four feet (4') high shall be provided around play areas.
5. All passenger loading and unloading areas and outdoor play areas shall be so located as to avoid conflict with vehicular traffic.
6. Any legally existing day care center operating under a special use permit at the time of adoption of this ordinance will be considered a legal day care center, subject to complying with the above conditions.

Section 10-241. Day Care Home (Children or Adult).

a. Purpose. To provide for home-based day care operations, licensed by the State which provides day care, for four (4) or more children or adults who are apart from their own family or relatives during a part of the day.

b. Required Conditions.

1. A Special Use Permit and site plan are subject to approval by the Planning and Zoning Commission and City Council for all Day Care Homes.
2. A Day Care Home should not detract from the residential character of the neighborhood and should be compatible with existing residential usage.

3. A Day Care Home shall be incidental to the use of a dwelling unit for residential purposes and be limited in extent.

4. Only members of the immediate family permanently residing at the premises shall be employed in the Day Care Home.

5. In no case shall a day care home be open to the public at times earlier than 6:00 a.m. nor later than 10:00 p.m.

6. A solid wall or fence a minimum of four feet (4') high shall be provided around play areas.

7. All passenger loading and unloading areas and outdoor play areas shall be so located as to avoid conflict with vehicular traffic.

8. Copies of any state registration or applications for registration shall accompany all SUP applications.

Section 10-242. Fences/Walls.

a. Purpose. To provide for the construction of fences, walls and like barriers within the City in any of the zoning districts provided that the fencing complies with the requirements of this Ordinance as to location, height and composition.

b. Required Conditions. In all cases, fences, walls or like barriers shall meet the following:

1. Fences generally may be constructed along the front, rear and side property lines, if located entirely on private property and not in excess of the maximum height allowed.

2. Fences shall not be designed or constructed so as to interfere with traffic site visibility. Fences determined to cause immediate danger may be removed by the City.

3. Fences located in the front yard, along the front property line and/or the side property line(s), to a depth less or equal to the required front yard setback, are restricted to a maximum height of four feet (4') in residentially zoned districts and eight feet (8') in commercial, industrial and other non-residential districts.

4. Fences located in the rear or side yards, along the rear property line or the side property line(s), at a depth greater than the required front yard setback, are restricted to a maximum height of eight feet (8') in residentially zoned districts and fifteen feet (15') in commercial, industrial and other non-residential districts.

5. There are certain circumstances, however, whereby the maximum height of a fence erected in the designated front and side yards of a lot which is zoned residential may exceed the four foot (4') maximum height limitation. In these circumstances, all fencing or walls shall not interfere with traffic site visibility or public safety;

(a) Where the property is zoned "R-3" or "R-4" and being utilized as a multi-family residential development, the fence may not exceed six feet (6') within the required front yard.

(b) Where the property is zoned residential and is being utilized by a church, educational facility, hospital or nursing facility, the fence may not exceed six feet (6') within the required front yard.

6. Composition of fences is restricted to materials commonly used in fence construction, e.g., wood, wire, brick, stone, pipe, concrete, or materials approved by the City Engineer .

7. Fences composed of tires, bumpers or other new or used materials, not commonly used in fence construction, are prohibited in all zoning districts.

8. Fences composed entirely or partially of barbed wire, razor or similar wire have been found to be a potential hazard to children and adults alike and, therefore, the use of barbed wire is prohibited in all residential districts and permitted in non- residential districts only where for security purposes a material as hazardous as barbed wire is required.

9. The requirement of this Ordinance that "through lots" having frontage on two streets, observe the required front yard setback on both streets, shall generally apply to the location and height of fences erected on such through lots. Fences in both the designated front and rear yard of through lots, shall be restricted to a maximum height of four feet (4') in residentially zoned districts and eight feet (8') in commercial, industrial and other non-residential districts, so as to conform to the maximum fence height along either street frontage.

There are certain circumstances, however, whereby the maximum height of a fence erected in the designated rear yard of a through lot, which is zoned residential, may exceed the four foot (4') maximum height limitation:

(a) Where the designated rear yard of a through lot is adjacent to a four or six- lane arterial; or

(b) Where the designated rear yard of a through lot is across the street from property zoned and developed for industrial use.

10. The Building Code requirement that public and private swimming pools be enclosed by a six foot (6') high fence, shall in no way be interpreted as to require or permit a fence to be erected in the rear yard of through lots which would enclose the entire rear yard. Fences erected around pools on such lots shall enclose only the pool area. A fence erected along the property line to enclose the rear yard shall conform to the maximum fence height restrictions of the district in which the property is located, unless permitted under the circumstances noted in Number 5 above.

11. Retaining walls which exceed four feet (4') in height shall be designed and stamped by a professional engineer

Section 10-243. Home Occupation.

a. Purpose. To provide for certain types of restricted occupational uses within residential districts.

b. Permitted Uses. A Home Occupation is an accessory use of a dwelling unit for gainful employment which: is clearly incidental and subordinate to the use of the dwelling unit as a residence; is carried on solely within the main dwelling and does not alter or change the exterior character or appearance of the dwelling; is located in a residentially zoned district and does not adversely affect or diminish the residential character or quality of life of the surrounding neighborhood; and is created and operated as a sole proprietorship by a resident of the household.

1. The permitted home occupations are shown on the chart, "Use of Land, Buildings and Structures", found in this Ordinance.

2. The uses listed as home occupations are the only ones allowed, except as governed by Number 3 below.

3. If an unlisted use is requested as a home occupation, it may be allowed only after approval is given according to the procedures set out in this Ordinance, "Classification of Unlisted Uses".

c. Required Conditions:

1. A Home Occupation should not detract from the residential character of the neighborhood and should be compatible with existing residential usage.

2. A Home Occupation shall be incidental to use of a dwelling unit for residential purposes and be limited in extent. No more than five hundred square feet (500 s.f.) of the floor area shall be utilized by the home occupation or for storage purposes in connection with a home occupation. The floor area of a dwelling unit, in this case, shall include the floor area of all heated, ventilated and thereby habitable rooms within the dwelling unit, including basements and habitable attic space.

3. Retail sales on the premises shall be prohibited.

4. Only members of the immediate family permanently residing at the premises shall be employed in the Home Occupation

5. In no case shall a Home Occupation be open to the public.

6. No more than one (1) Home Occupation shall be permitted within any single dwelling unit.

7. There shall be no exterior indication of the home occupation or variation from the residential character of the principal building.

8. There shall be no exterior storage of materials to be used in conjunction with a home occupation.

9. There shall be no deliveries to or from a residence involving a home occupation with a vehicle larger than a one ton truck.

10. No materials which decompose by detonation shall be allowed in conjunction with a home occupation.

11. A home occupation shall not produce offensive noise, vibration, smoke, electrical interference, dust, odors, or heat. Any noise, vibration, smoke, electrical interference, dust, odors or heat detectable beyond the property lines or beyond the walls of the dwelling unit, if the unit is part of a multi-family structure, shall constitute a violation of this Section. The judgment of the City Manager shall be considered decisive and final in this matter unless formally appealed to the Planning and Zoning Commission within fifteen (15) days of written notification.

12. All home occupations are subject to periodic inspections.

Section 10-244. Manufactured Home Park Regulations.

a. Purpose. To provide for Manufactured home parks which lease pad sites within the park. In such Manufactured home parks no buildings or land may be used and no building may be erected or structurally altered, unless otherwise provided in this section, except for one or more of the following uses, which are expressly prohibited in any other use district.

b. Required Conditions.

1. Manufactured home parks shall be permitted only on land zoned R-MH Manufactured Home Residential District.

2. Minimum area shall be ten (10) acres.

3. The minimum number of manufactured home spaces contained in any park shall be twenty (20).

4. Density shall not exceed nine (9) units per acre.

5. Screening - A solid wall or fence at least six feet (6') high shall be erected and thereafter properly maintained along all boundaries of the R-MH District developed as a manufactured home park; except:

(a) Where its boundary abuts a commercial or industrial tracts.

(b) Where its boundary abuts another manufactured home development.

6. Park must have direct access to a street having a dedicated and accepted right-of-way of not less than sixty feet (60').

7. An internal street shall be provided to each R-MH space. Each internal street shall be paved to a width of not less than twenty five (25) feet. The internal streets shall be continuous and connect other internal streets or with public streets, or shall be provided with a paved cul-de-sac having a diameter of eighty feet (80'). No internal street ending in a cul-de-sac shall exceed four hundred feet (400') in length.

Section 10-245. Special Use Regulations.

a. Purpose. Special Use Regulations set standards, conditions and procedures whereby Special Uses may be approved. Certain specific uses are designated by this Ordinance as Special Uses, in part because of the potential adverse impact the use may have on nearby property and because the requirements needed to minimize or eliminate the adverse impact may vary from site to site. The Planning and Zoning Commission and City Council in considering each Special Use Permit (SUP) request will review the overall compatibility of the proposed special use with surrounding property as well as such specific items as screening, parking and landscaping to make sure that the impact of the special use is minimal and that little or no adverse effects occur to nearby property.

b. Application Procedure. A property owner or agent shall apply to the City Manager. Only uses designated as Special Uses by this Ordinance are eligible for consideration. Such special uses and the zoning districts in which the use is permitted are shown on the chart, "Uses of Land, Buildings and Structures."

c. Application and Processing Requirements.

The Planning and Zoning Commission shall hold a public hearing on all requests for a Special Use Permit. The public hearing will be held at a regular meeting. The complete application shall contain the following information:

1. A Site Plan of the property which includes all information as required by the Site Plan guidelines of the City Manager.

2. In addition to the above information, the applicant may submit supportive information. This information will be used by the City Manager in preparing and mailing notices to all persons listed as area

property owners. This notice shall notify them of the date of the public hearing, the legal description and the street address(es) of the property proposed for a special use.

3. The City Manager will post signs on the property under consideration announcing the proposed Special Use. The signs shall contain the date of the public hearing and the proposed special use of the property.

d. Planning and Zoning Commission Action.

1. The Planning and Zoning Commission shall consider Special Use applications at the Commission's regular monthly meeting and hold the required public hearing on a Special Use Permit application at that time. After the public hearing, the Commission will take one of the following actions: recommend the application to the City Council as submitted; recommend the application with modification; table the application to a later meeting; or deny the application. Final approval of all Special Use Permits rests with the City Council.

2. The Commission may impose conditions and restrictions upon the property under consideration with the intent of minimizing the impact of the Special Use upon nearby property.

3. The Commission by recommending the Special Use, thereby recommends final approval by the City Council of an Ordinance granting a Special Use Permit.

e. Development Standards and Review Guidelines. At the discretion of the Planning and Zoning Commission the following development standards and design specifications can or may be the basis for approval of a Special Use Permit:

1. The design, location and operating plans shall be such that the safety of the public is protected.
2. Consideration of the zoning district of the proposed special use and the adjacent land within two hundred feet (200').
3. The location and dimensions of all public rights-of-way on or abutting the proposed special use.
4. Existing and proposed vehicular and pedestrian circulation systems; including streets, alleys, walkways, service areas and loading areas, the location and arrangement of off-street parking areas and all points of vehicular entrance and exit.
5. The outdoor surfacing and paving for all parking and loading areas.
6. The proposed perimeter treatment of the property, with indication of screening materials to be used, including fences, walls, and plants, together with a description of uses, setbacks and the relationship to surrounding areas.
7. A Landscape Plan showing proposed treatment of the areas designated as either buffers or open space.
8. The location and dimensions of all existing and proposed easements and public improvements on the site.
9. The location and size of all structures, distances between buildings, and distances from structures to property lines.

10. The location and description of all signage, including facade signs on buildings.

11. The proposed use of all structures and their dimensions, i.e., height, floor areas, entrances and loading areas.

f. Conditions.

1. Special Use Permits are approved for a specific period of time. In most instances a first-time Special Use Permit will be issued for a period not to exceed three (3) years. Renewals of existing Special Use Permits will be renewed for a longer time period, usually for five (5) years. Some Special Uses due to their nature and the cost associated with their operation, may be approved for an indefinite period of time. In any and all cases, the term and duration of a Special Use Permit rests with the City Council.

2. All conditions required for a Special Use Permit must be met before any part of the use can be utilized. Violation of any term, condition, requirement or duration of a Special Use Permit approved under this Section is unlawful, shall constitute a violation of this Ordinance, and shall subject the violator to the penalties set forth in Section 1-4. In addition, the Special Use Permit may be revoked or suspended by the City Council due to such violation, following public hearings by both the Planning and Zoning Commission and the City Council.

3. Compliance with all conditions required for a Special Use Permit must be completed within one (1) year of the authorization, unless a special time limit has been imposed by the City Council. An extension of time beyond one (1) year, or that imposed by the Council, may be granted by the City Manager one time, for up to ninety (90) days.

4. No variance(s) may be granted through issuance of a Special Use Permit. The City Manager may grant minor changes to the conditions imposed as long as those changes conform to the intent of the Planning and Zoning Commission. No building permit involving a Special Use shall be issued by the Building Official unless all of the requirements of this Section have been met.

g. Appeals. The decision of the Planning and Zoning Commission concerning a Special Use Permit may be appealed to the City Council. The applicant must file the appeal with the City Manager by 5:00 p.m. on the tenth (10th) calendar day following the date of decision by the Planning and Zoning Commission.

h. Temporary Use Permit. The City Manager may issue a Temporary Use Permit (TUP) for the following uses, provided that the temporary use complies with regulations of this Ordinance governing area, parking, signage, sanitation requirements, etc., for the district in which it is to be conducted and does not constitute a nuisance for adjacent properties. Refer to the chart, "Uses of Land, Buildings and Structures", for other permitted Temporary Uses. Violation of any term, condition, requirement or duration of a Temporary Use Permit approved under this Article is unlawful, shall constitute a violation of this Ordinance, and shall subject the violator to the penalties set forth in Section 1-4. In addition, the Temporary Use Permit may be revoked or suspended by the City Council due to such violation, following public hearings by both the Planning and Zoning Commission and the City Council.

1. Streamers

(a) Within areas zoned C-2, C-3, M-1, M-2, and M-3 subject to compliance with Section 10-246 (d).

(b) Within all other zoning districts; not to exceed a cumulative total of sixty (60) days per calendar year.

2. Balloons (Cold Air / Helium)

(a) Within all zoning districts not to exceed a cumulative total of fourteen (14) days per calendar year.

(b) A minimum setback for balloons equal to the height of the balloon shall be required from any right of way or utility pole.

3. Banners (Special Events / Sales)

(a) Banners attached to building facades are considered and calculated as part of the facade signage and are subject to facade signage restrictions per Section 10-247.

(b) Off-premise banners intended for use by sponsors of non-profit community activities such as festivals, conventions, major events, and general street beautification shall be allowed within all districts if signed by the property owner and if approved by the City Manager of Planning.

(c) Banners displayed on publicly owned property (parks, convention centers, and buildings) shall be signed by the designated representative of the property and shall be subject to approval of the City Manager

(d) Within schools, churches, and institutions of similar use, and all Office, Commercial and Industrial Zoning Districts; not to exceed a cumulative total of sixty (60) days per calendar year.

(e) Banners shall be kept in good condition and shall be securely fastened to appropriate restraints in order to be neat in appearance and prevent any unsafe conditions.

4. Tents

(a) All tents shall comply with Fire Department Regulations.

(b) Within all Office, Commercial, and Industrial districts; not to exceed a cumulative total of thirty (30) days per lot per calendar year.

(c) Seasonal tents used for nurseries, tree lots, or similar type uses, may be approved up to ninety (90) days (maximum of two permits per calendar year per lot) at the discretion of the City Manager.

5. Any other attention gathering devices within all zoning districts; Location and duration shall be at the discretion of the City Manager.

i. Outdoor Transient Vendors.

An outdoor transient vendor is a person, or the agent, consignee or employee of a person, who at a fixed location within the City engages in the temporary display, exhibition, delivery, or sale or offering for sale of any goods or services with the intent of discontinuing such use upon the expiration of a time period not to exceed a maximum of sixty (60) days. An outdoor transient vendor shall obtain an Outdoor Transient Vendor permit prior to engaging in such activity. The Outdoor Transient Vendor regulations in this subsection shall not apply to Fruit/Vegetable Stands and Fruit/Vegetable Sales (Roadside).

1. Transient Vendor Application

Outdoor Transient Vendor Permits are subject to approval of the City Manager. A copy of said permit shall be displayed prominently at the location. A photo ID shall be kept at the approved location for verification.

2. Transient Vendor Requirements

(a) Outdoor sales shall only be allowed in zoning districts where outdoor sales are allowed by right (C-2, C-3, C-4, M-1 and M-2).

(b) Each lot is allowed only one outdoor transient vendor at a time.

(c) A maximum of two 30-day permits per calendar year per lot/contiguous tract is allowed.

(d) Outdoor transient vendors cannot occupy required parking spaces for an existing business.

(e) Outdoor transient vendors are not permitted on lots without a principle structure or use that has approved off-street parking and commercial driveways.

3. Penalties. Violation of any provision of subsection i. of this Section, or violation of any term, condition, requirement or duration of an Outdoor Transient Vendor Permit issued under this Article, is unlawful and shall subject the violator to the penalties set forth in Section 1-4.

4. Suspension/Revocation. In addition to the penalties listed in subsection 3. above, an Outdoor Transient Vendor Permit may be revoked or suspended by the City Council due to a violation of this Ordinance or violation of the terms of the Permit, following public hearings by both the Planning and Zoning Commission and the City Council.

5. Enforcement. Both the City Manager and Police Department personnel shall have full and complete authority to enforce the provisions of subsection i. relating to Outdoor Transient Vendors, and shall have authority to issue citations for violations thereof.

j. Garage Sales.

A garage sale is a sale of personal property conducted within a residential district.

1. Only those garage sales in compliance with the regulations of this Ordinance are permitted in a residentially zoned district. Any other attempted sale is prohibited in residential districts.

2. No Commercial Sales. No sales requiring a sales tax permit are authorized by this Section.

3. Number per Year. No more than one garage sale may be conducted from any residence during any consecutive six-month period; two (2) per year.

4. Length of Sale. No garage sale may be held for a period exceeding three (3) consecutive days unless a longer duration is approved by the City Engineer through issuance of a Temporary Use Permit (TUP).

Section 10-246. Off-Street Parking And Loading Regulations.

a. Purpose. To ensure the provision of adequate off-street parking, loading and maneuvering facilities for all land uses in the City. The standards and regulatory procedures set forth in this Section are intended to regulate

parking facilities so that there is sufficient parking available for each land use and that the parking spaces are functional and adequate, to serve the parking demand generated or associated with a particular land use.

b. General Conditions.

1. Off-Street Parking Requirements

(a) In all districts, in connection with every residential, educational, institutional, commercial, industrial, or public use, permanent off-street parking spaces, in the amount specified in this Section, shall be provided at the time any new building or structure is constructed, or when any existing principal building is enlarged.

(b) In all districts except C-3, there shall be provided at the time any occupancy of a building or land use is changed, a sufficient number of parking spaces to meet the parking requirements of the new occupancy or land use.

(c) No building shall be constructed or enlarged, nor shall any use be expanded, if such action will eliminate existing required off-street parking spaces.

(d) Off-street parking spaces shall be located on the same lot or tract occupied by the principal use or in accordance with the Off-Site Parking Requirements of this Section and located within the same zoning district as the principal use.

2. Use of Public Right-of-Way Prohibited

(a) No portion of any parking space or minimum required maneuvering area shall utilize any part of a public street, right-of-way, alley or other public property.

(b) No public street, right-of-way or public property may be used to gain direct access to a parking space except that an alley may be used for maneuvering space to reach a parking space, and public streets may be used to gain direct access to residential usage.

3. Exemption from Off-Street Parking Requirements. Legally established land uses and building occupancy, existing at the effective date of this Ordinance, where minimum required off-street parking is not provided, shall not be required to meet the minimum parking requirements of this Ordinance until required to do so under Section 10-205.

4. Minimum Standards and Property Owner Responsibility

(a) The standards set forth in this Section are minimum requirements. It shall be the responsibility of the property owner to certify at the time formal application is made for a Building Permit or Certificate of Occupancy and Compliance that the site provides sufficient space and facilities necessary to assure that no vehicle parking or maneuvering activity will take place on public right-of-ways or on private property not under the property owner's control.

(b) To prevent nuisance situations, all parking area lighting shall be designed, located and installed so as not to shine directly on or reflect onto adjacent properties. For safety and emergency situations, free access through to adjacent parking areas shall be provided where practical.

(c) Except for single-family and two-family uses, all off-street parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers or other approved

methods. Parking spaces identified by non- permanent materials, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

5. Ownership or Control. The land on which off-street parking spaces or a loading facility is located, shall be owned or under the control of the same entity which owns or controls the land on which the principal use is located, or by "Joint Use Agreement" as defined in Subsection e.2.

6. Proper Use of Required Parking Space

(a) Parking spaces and loading areas provided in accordance with this Section shall not be used for the sale, repair, assembly or disassembly, storage or servicing, of vehicles or equipment. Unlicensed and inoperable vehicles shall not be stored in any required parking or loading space.

(b) Required parking spaces shall be available for the parking of operable passenger vehicles, by residents, customers, patrons and employees only, and shall not be used for display or storage of vehicles or materials, or parking of service or delivery trucks and trailers.

(c) Temporary display of merchandise in a required parking space or loading area, or a temporary use of a parking space or loading area for a use other than parking and loading, may be permitted under certain circumstances if authorized by the City Engineer through issuance of a Temporary Use Permit (TUP).

c. Approval Procedure for Off-Street Parking, Loading and Access.

No Building Permit for new construction or building expansion, or a Certificate of Occupancy and Compliance for change in occupancy, may be issued by the Building Official until a parking plan has been reviewed and approved by the City Engineer as a part of the building and Site Plan review process. No Certificate of Occupancy and Compliance may be issued until all off-street parking and loading facilities have been constructed.

1. Plan and Information Required. The applicant for a Building Permit for new construction or building expansion, or for a Certificate of Occupancy and Compliance for a change in occupancy of an existing structure, shall submit a parking plan showing the number, location and size of all parking spaces, driveway dimensions and locations, traffic aisle widths and locations, and maneuvering areas. The applicant shall submit information necessary to verify compliance with this Section and the City Parking Design Standards.

2. Plans for Paving of Parking Area. Plans for paving of all off-street parking areas, traffic aisles, and access driveways, including detailed drainage plans are subject to, review and approval by the City Engineer for compliance with this Section and the City Driveway requirements in Chapter 6, Article X, or on file with the City Engineer.

3. Permits Required. All new parking lots and additions to existing parking lots shall require issuance of a Building Permit.

d. Interpretation and Appeal. If questions of interpretation or the application of the requirements of this Section to a particular land use or occupancy of a structure arise, the City Engineer shall, based on findings of fact, make a determination of the off-street parking, loading or access requirements. A property owner if not satisfied with the City Engineer's determination, may appeal such determination to the Zoning Board of Adjustment under the variance procedure.

e. Off-Site and Shared Parking Requirements.

1. Off-Site Parking Facilities

(a) If off-street parking spaces required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, parking spaces may be provided elsewhere if approved by the City Engineer, but in any case, all the required parking spaces must be within three hundred feet (300') of the principal use served.

(b) The three hundred foot (300') minimum distance is to be measured from the nearest point of the lot or tract which is the location of the off-site parking spaces, to the nearest point of the lot or tract which is the location of the principal use.

2. Off-Site Parking Plan. Off-site parking will normally not be approved by the City Engineer for commercial purposes except under circumstances of hardship. No off-site parking may be located on the same lot as a residential dwelling. All requests for approval of an Off-Site Parking Plan shall be submitted in writing and shall include the following:

(a) A written statement by the owner(s) of the entire land area to be included within the parking plan, and by the owner(s) of all structures on the land, agreeing to all of the provisions of the plan.

(b) Sufficient evidence to establish to the satisfaction of the City Engineer that those individuals requesting approval are the owners of the designated land and structures.

(c) The location and size of the principal use(s) or structure(s) for which off- site, off-street parking is required.

(d) The location and layout of the required off-street parking spaces and their relative location and distance from the principal use served.

(e) A permanent and irrevocable easement, unless revocation approved by the City, covering the off-site parking spaces in favor of the principal use to be benefited thereby, shall be dedicated and recorded as a condition of approval.

3. The City Engineer shall consider such requests and either approve or disapprove the Off-Site Parking Plan. Plan approval may establish necessary conditions and limitations.

4. All Off-Site Parking Plans which have been approved by the City Engineer shall be binding upon the owner(s) of the land and structures included in the plan, and their successors, and shall control all permits and certificates, and the use and occupancy of the designated land area and structures.

5. Off-Site Parking Plans may be amended or withdrawn through the same approval process. The easement which conveys the right to use the off-site parking may be revoked only if both parties and the City agree that the need for the off-site parking no longer exists or that another source of off-street parking has been secured by the principal use.

6. Joint Parking Facilities. The required off-street parking spaces for any number of separate uses may be combined in a joint parking facility under the following conditions:

(a) In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirement of the various uses computed separately.

(b) Church and School Parking Lots. A facility or use located within three hundred feet (300') of the property line of a church or school, measured by a straight line from the nearest

points, may use the parking lot of the church or school to provide a maximum of twenty-five percent (25%) of its required off-street parking provided the operating schedules of the facility and the church or school do not conflict.

A church or school located within three hundred feet (300') of the property line of another facility, measured by a straight line between the nearest points, may utilize the parking lot of that facility for a maximum of twenty-five percent (25%) of its required parking provided the operating schedules of the church or school and the facility do not conflict.

In either case, a document must be filed with the City showing that the operating schedules of the facilities involved do not conflict and the separate facilities will be required to provide enough additional parking spaces to meet the requirements of this Ordinance.

f. Construction Standards. Off-street parking spaces and loading areas shall be designed, located, constructed and maintained in accordance with the following specifications:

1. Surfacing.

(a) All portions of access driveways or public right-of-ways connected to paved streets for which the grade has been established must comply with the City's Driveway requirements on file with the City Engineer.

(b) Parking spaces and loading areas shall be graded for proper drainage and provided with an all-weather surface such as asphalt, concrete, brick or as approved by the City Engineer.

2. Multi-Family and Non-Residential Parking Design

(a) Off-street parking areas shall be designed to provide systematic and orderly circulation, traffic separation and parking spaces in accordance with this Section and with sound traffic engineering practices. Each parking space or loading area shall be usable and readily accessible.

(b) Required off-street parking spaces and loading areas shall be provided with designated entrances and exits located so as to minimize traffic congestion and avoid undue interference with public use of streets, alleys and walkways.

3. Residential Parking Design. A single-family or two-family (duplex) residential structure may use a paved driveway to fulfill the minimum parking requirements of this Section. The residential driveway shall conform to the driveway design requirements of the Driveway Ordinance.

4. Separation from Public Right-of-Way. All off-street parking spaces and the public right-of-way of a street, without a minimum eight inch (8") high curb, shall be separated by a six inch (6") high concrete header curb, bumper or landscape timbers. All parking spaces shall be designed so that vehicles do not overhang public sidewalks or adjacent private property.

5. Lighting. Lighting of off-street parking spaces and loading areas shall not create a hazard for traffic or be a nuisance to adjoining properties.

6. Clearance

(a) A vertical clearance free of all obstructions to a height of eight feet (8') is required for all portions of any off-street parking space, except when off-street parking spaces are provided in a parking garage structure, a residential garage or carport.

(b) No obstruction within or near the bounds of any required off-street parking space shall interfere with the normal use of the parking space.

g. Minimum Required Off-Street Parking.

The minimum requirement for the number of off-street parking spaces required for every land use and building occupancy shall be calculated by using the Parking Group Schedule. Each use and occupancy listed on the chart, "Uses of Land, Buildings and Structures", has been assigned by this Ordinance to a specific parking group. The parking group number for each use is indicated on the Use Chart.

1. Off-street parking spaces shall be provided by all uses in the amount specified by the Parking Group in which the use is assigned. For most groups, the parking requirement is based on the square footage of the building occupied by the use. The gross floor area of the building is the measurement to be used in determining the square footage of a building for the purposes of calculating the parking requirement.

2. Where the calculation of the off-street parking requirement results in requiring a fractional space, any fraction less than 0.5 shall be disregarded; any fraction of 0.5 or greater shall require an additional space.

3. A minimum of four (4) off-street parking spaces shall be provided for any non- residential use except that of home occupations.

h. Off-Street Parking Schedule.

In all districts, there shall be provided at the time of any building or structure is erected or structurally altered (except as otherwise provided in this Section) off-street parking spaces in accordance with the following requirements:

1. Residential Development District	Required Off-Street Parking
AG, R-1a, R-1b, R-1c, PMF, RMH	Two (2) spaces per dwelling unit
R-2, R-3, R-4; Residential development in all other zoning districts	Two (2) spaces per dwelling unit, apartment or duplex
R-TH, PUR	Two and one-half (2.5) spaces per dwelling unit

In calculating parking for all non-residential development, there shall not be less than four (4) parking spaces required.

2. Non-Residential Development	Required Off-Street Parking
Airport	One (1) space per 100 square feet of waiting room
Art Gallery	One (1) space per 300 square feet
Auditorium	One (1) space per five (5) seats
Automobile Repair Garage	Three (3) spaces per service bay, plus one (1) space per tow truck
Automobile Sales	One (1) space for each 600 feet enclosed floor space, plus one (1) space for each 2,000 square feet of outside display area

Bank or similar financial establishment	Three (3) spaces, plus one (1) additional space for each 400 square feet of floor area over 1,000
Bed and Breakfast	Two (2) spaces, plus one (1) space per sleeping room
Beauty Parlor (Barber Shop)	Two (2) spaces per chair
Boarding House (Dormitory)	One (1) space per three (3) persons the establishment is designed to accommodate
Bowling Alley	Five (5) spaces per each alley
Business or Professional Office	Three (3) spaces, plus one (1) additional space for each 400 square feet of floor area over 1,000
Church	One (1) parking space for each 5 seats or seating spaces within main sanctuary, and one (1) parking space for each five seats or seating spaces for within each classroom, day care, gymnasium, or other accessory use occupied at the same time that the sanctuary is occupied.
College/University	Five (5) spaces per classroom & administrative offices
Community Center	Ten (10) spaces, plus one (1) additional space for each 300 square feet of floor area over 2,000
Convalescent Center (Nursing Home)	One (1) space per three (3) patient beds
Day Care Center	Two (2) spaces for the first 1,000 square feet of gross floor area and one (1) additional space for each 400 square feet of gross floor area greater than 1,000 square feet
Fraternity/Sorority	One (1) space for each three (3) persons the establishment is designed to accommodate
Funeral Home (Mortuary)	One (1) space for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms
Furniture Store	Two (2) parking spaces, plus one (1) additional parking space for each 500 square feet of floor area over 1,000square feet
Golf Course	One (1) space for each five (5) members or four (4) spaces per golf hole, whichever is greater
Golf Driving Range	One (1) space for driving tee
Gymnasium	One (1) space for each five (5) seats or seating spaces
Health Club	Two (2) spaces, plus one (1) space for each 300 feet of floor area
Hospital	One (1) space for each four (4) beds, plus one space for every two (2) employees on the maximum working shift
Hotel/Motel and other similar transient accommodations	One (1) space for each sleeping room, suite or guest accommodation. All other accessory uses shall be calculated separately
Library	Ten (10) spaces, plus one (1) additional space for each 300 square feet of floor area in excess of 2,000 square feet
Lumberyard	Four (4) spaces for each 1,000 feet of gross floor area

Manufacturing or Industrial Establishment	One and one-half (1.5) for each 1,000 square feet of gross floor area
Medical/Dental Clinic (office)	Three (3) spaces, plus one (1) additional space for each 400 square feet of floor area over 1,000 square feet
Movie Theater	One (1) parking space for each four (4) seats or seating spaces
Night Club	One (1) space for each 100 square feet of floor area
Office (General)	Three (3) spaces, plus one additional space for each 400 square feet of floor area over 1,000 square feet
Pawn Shop	One (1) space per 200 square feet of floor area
Plumbing/Heating Supplies	One (1) space for each 1,000 square feet of floor area
Printing and Publishing	One (1) space for each three (3) persons employed therein
Private Club	One (1) space for each 100 square feet of floor area
Professional Studio	Three (3) spaces, plus one (1) additional space for each 400 square feet of floor area over 1,000 square feet
Restaurant or similar establishment	One (1) space for each 100 square feet of floor area
Retail or Personal Services	One (1) space for each 200 square feet of floor area
Schools	Elementary One (1) space for each 14 students (design capacity) Middle One (1) space for each 14 students (design capacity) High One (1) space for each one and one-half (1.5) students, faculty, and staff (design capacity)
Stadium (sports arena)	One (1) space for each five (5) seats or seating spaces
Shopping Center	Five (5) spaces for each 1,000 square feet of leasable area
Warehouse	One (1) space for each 1,000 square feet of floor area
Wholesale Establishment	Two (2) spaces, plus one (1) additional space for each 500 square feet of floor area over 1,000 square feet
Mini Storage Warehouse	One (1) space per 3 storage units or one (1) space per 6 units with an aisle width of 20 feet (20') or greater, but a minimum of five (5) spaces for the complex, whichever is greater

i. Off-Street Loading Requirements.

1. All commercial and industrial structures shall provide and maintain off-street facilities or areas for loading and unloading of merchandise and goods within the building or on the lot.

2. Where such loading facilities or areas are located adjacent to a residentially zoned district, or located across a street no wider than two (2) lanes from a residential district, the loading area, space or berth shall be enclosed on three (3) sides.

3. Number of Loading Spaces Required. The minimum number of off-street loading facilities, areas, spaces or berths shall be provided in accordance with this Section. The following schedules shall be used to calculate the minimum number of loading spaces required for the uses listed.

(a) For all retail, wholesale and industrial uses:

<u>Minimum Required Spaces (berths)</u>	<u>Square Footage of Gross Floor Area in Structure</u>
None	0 to 9,999
1	10,000 to 49,999
2	50,000 to 99,999
3	100,000 to 200,000
1 add'l	Each add'l 100,000

(b) For all hotels, motels, office buildings, restaurants and similar establishments:

<u>Minimum Required Spaces (berths)</u>	<u>Square Footage of Gross Floor Area in Structure</u>
None	0 to 49,999
1	50,000 to 149,999
2	150,000 to 299,999
3	300,000 to 499,999
4	500,000 to 1,000,000
1 add'l	Each add'l 500,000

4. Child day care centers, kindergartens, day schools and similar child care and training establishments, shall provide loading and unloading space on an approved private drive, off-street, sufficient in length to accommodate one (1) motor vehicle for each ten (10) children or students being cared for or enrolled at the establishment. Loading and unloading spaces shall not be required when the day care or school is located:

(a) Within an office building as an accessory use provided as a service to employees or customers; or

(b) Within a single-occupancy building as an accessory use provided as a service to its employees or customers; or

(c) Within a shopping mall; or

(d) In a church or other religious institution with adequate off-street parking space.

5. Drive-thru window operations, including those providing food service, financial or other services to the public while the customer remains seated in a motor vehicle, shall provide sufficient space for the vehicles to queue while the customer is being served, placing an order, or waiting to place an order or to receive service.

6. Loading docks for any establishment which customarily receives goods between the hours of 9:00 p.m. and 8:00 a.m., and is adjacent to a residentially zoned district, shall be designed and constructed so that the loading operation is visually screened, in order to reduce the effects of the noise of the operation on adjacent residences.

j. Large Recreational and Special Vehicle Storage. The long-term parking or storage of any large recreational or other special vehicle, as defined in this Section, in any residentially zoned district, shall comply with:

1. Vehicle definition. A large recreational or special vehicle is any camper, travel trailer or other trailer (including boats, autos, or any other item stored thereon), designed to be towed on public streets and which exceeds twenty-two feet (22') in length; or any motor home, coach, bus or other self-propelled vehicle which exceeds twenty-two feet (22') in length; or a truck- tractor (without trailer). Truck-tractor means every motor vehicle designed and used primarily for drawing other vehicles and not so as to carry a load other than a part of the weight and load so drawn. The definition of large recreational or special vehicle shall not include any other commercial or heavy vehicles otherwise prohibited in residential areas by Chapter 10 or 17.

2. Vehicle Length. Vehicle length shall be measured to include the trailer tongue and other connections, and any overhang of the vehicle or trailer, including the item(s) being transported on the trailer.

3. Vehicle Storage. Storage is defined as the continuous parking of the vehicle for forty-eight (48) hours or longer.

4. Storage Requirements. All large recreational and special vehicles stored in a residentially zoned district must meet the following requirements:

(a) No large recreational or special vehicle may be stored on required off-street parking.

(b) No part of a large recreational or special vehicle may extend over a public easement or right-of-way.

(c) No large recreational or special vehicle stored on a residential lot may be used for housekeeping, living or sleeping quarters.

(d) If required, federal and state licensing and registration of the large recreational or special vehicle must be current.

(e) All large recreational or special vehicles must be maintained in an operable condition.

(f) Stored vehicles must be secured with wheel stops or maintained so as not to present a safety problem to the neighborhoods in which the vehicle is parked.

(g) All large recreational or special vehicles must be stored on an improved driveway or improved parking surface such as concrete, asphalt, paving stones, or brick. Gravel or crushed rock may be used in the side and rear yards, but not in the front yard. The parking surface must be continuous from a driveway.

(h) Large recreational or special vehicles must be stored behind the front yard setback line, in the side or rear yard, unless the lot is served by a driveway from a public street and which is its only point of vehicular access, or the lot does not have access to a standard alley (ten foot (10') wide paved alley).

(i) Only one (1) large recreational or special vehicle may be stored per lot.

(j) A large recreational or special vehicle stored in the front yard must be parked perpendicular to the front property line.

(k) On a residential lot, all self-propelled vehicles not defined as a large recreational or special vehicle must be parked on an improved surface.

5. Maximum Pavement Area. In all residential districts developed for single-family or two-family occupancy, pavement in the front yard may not exceed fifty-five percent (55%) of the area between the property line and the building face.

On a residential lot, all self-propelled vehicles not defined as special vehicles must be parked on an improved surface.

Section 10-247. Signs and Identification Regulations.

a. Purpose. The regulation of signs and other forms of outdoor advertising within the City is necessary and in the public interest in order to protect property values; to preserve the beauty and unique character of the community; to promote and aid in the tourist industry which is of significant importance to the local economy; to protect the public from damage and injury which may be caused by the uncontrolled location and faulty construction of signs; to protect pedestrians and motorists from damage and injury caused or partially attributable to the distractions, obstructions and visual clutter which are the result of improperly situated signs; and to promote the public safety, welfare, convenience and enjoyment of travel and the free flow of traffic.

b. The standards and regulatory procedures of this Section are intended to regulate signs and other forms of outdoor advertising, so that each land use in the City which may require signs or may derive benefits from outdoor advertising, may display such signs and advertising, provided such display is in accordance with this Ordinance.

c. General Regulations. The regulations governing the size, height, location and number of signs herein prescribed, is calculated to achieve the aforementioned purposes and to ensure that all private, public, institutional, commercial and industrial facilities located in the City have the right to display adequate signs consistent with the need to identify the facility, advertise the location, and indicate services and products available on the premises.

In addition, provision is made for limited off-premise advertising of products and services, in specific zoning districts, provided such off-premise signs adhere to all Federal, state and local regulations.

All outdoor signs erected within the City shall be subject to the following general requirements:

1. Signs are prohibited within zoned districts except as specifically authorized by this section.
2. In order to erect signs or display advertising permanently outdoors legally, a permit must be first obtained from the Building Official, except where noted. In the case of temporary signs or special promotional advertising, a Temporary Use Permit (TUP) is required as per section 10-245h.
3. All outdoor signs shall be erected or installed by a licensed and bonded sign contractor, except where noted. The individual's or company's license to erect signs within the City shall be issued if approved by the Building Official and bond is posted.
4. Signs are regulated as to size, height and number.
 - (a) The size of a particular sign is determined by the surface area of the sign face.
 - (b) The height of a sign is determined by the vertical distance from the average ground level to the highest permanent part of the sign.
5. Permanent signs and other forms of outdoor advertising may not be located in or permitted to project into the public right-of-way, except in areas zoned C-3 Central Business District as provided in Section 10-247d.6.(d).

6. No sign base or support shall be erected in a public right-of-way.
7. Facade signs and other signs affixed to a building or structure, shall not protrude above the principal roof line of the building or structure.
8. Illumination of all outdoor signs and advertising, both free-standing and that which is affixed to a building or other structure, of permanent or temporary duration, shall be accomplished by means of indirect light. Illumination of any type shall not be animated, chasing, or flashing.
9. When any sign is illuminated, the light(s) shall be properly installed, shaded or concealed, so that the light emitted will illuminate the sign face and will not interfere with the vision of motorists nor shine directly onto residentially zoned property.
10. Flags, flag poles and banners are considered signs and are therefore subject to these regulations.
- (a) Flag poles erected in the City are limited to a maximum height of thirty-five feet (35'), measured from the highest point of the pole to the ground level.
- (b) The maximum number of flag poles allowed on any one (1) lot shall be determined by the zoning district in which the lot is located.
- (c) Individual flag size is restricted to that size which can be flown from a pole not to exceed thirty-five feet (35') in height.
- (d) No more than three (3) flags shall be flown from a single pole.
11. Portable signs, advertising flags, excluding those permitted above, pennants, and other attraction gathering devices are prohibited within all zoning districts, except those allowed by the City Engineer through the issuance of a Temporary Use Permit.
12. In all zoned districts, signs may not be located so as to use cause a threat to the public health, safety or welfare.
- d. Definitions. The following definitions qualify or supplement, as the case may be, those definitions found in Section 10-201, Definitions, and serve to further define and clarify specific terms as they relate to sign regulation.

Affixed: Fastened, joined or attached to in any manner, temporarily or permanently.

Animation: The presentation of pictorials and graphics, displayed in a progression of frames which give the illusion of motion.

Automatic Dimmer: A device that automatically decreases the brightness of the lighted message by fifty percent (50%) from the daytime brightness level.

Banner: A soft, flexible sign, similar to a flag, made of cloth, plastic or other material, usually strung between two (2) poles or attached to a building or other structure.

Billboard: An off-premise sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Bulletin Board: A sign which identifies an institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of individuals

connected with it, and general announcements of events or activities occurring at the institution or similar messages.

Reader Board: An on-premise sign designed to give information such as a list of items and services available, their price, or any other related commercial messages. These signs are characterized by the ease in which the message may be changed.

Character: An individual letter, number or blank space that is formed on a lamp bank.

Chasing: One graphic message immediately following another.

Development Sign (permanent): A sign displaying the name of a particular residential, commercial, industrial development or complex.

Display Mode: The method of presenting a message electronically.

Electronic Sign: A sign using electrical impulses to display a message, picture or design, whether stationary, moving or tracking in character.

EMC: "Electronic Message Center"

Facade Area: The area of a facade for the purposes of determining maximum allowable signs is calculated by the vertical height of the facade multiplied by the horizontal length of the facade.

Facade, Building: The exterior wall of a building or structure exposed to public view or that wall viewed by persons not within the building or structure. In no case shall a building be considered to have more than four (4) facades.

Facade Sign: A sign affixed to or painted on the wall of a building or structure so that the wall becomes the supporting structure for, or forms the background surface of the sign, and which does not project more than twelve inches (12") outward from such building or structure.

Flag Pole Sign: A device designed to display any type of flag.

Flashing: An intermittent light display with a shorter display schedule than permitted in these regulations.

Footage, Linear: A measurement of length in feet (12 inches).

Footage, Square: A measurement of an area in square feet (12 inches by 12 inches).

Free-standing(Pole or Ground) Sign: A sign which is not affixed to a building or structure, but which is affixed to the ground independent of any other structures.

Home Occupation Sign: A sign, one (1) square foot in area, identifying a legal home occupation.

Menu Board: An on-premise sign designed to give information, particularly one with drive-thru, window service.

Political Sign: A temporary sign used in connection with a local, state, or national election or referendum.

Portable Sign: A sign which is not permanently affixed to a building or to the ground and is capable of being moved or removed, and is primarily used for the purpose of advertising. This shall include, but not limited to, any sign mounted on a vehicle, trailer or mobile structure capable of being moved.

Schedule: The timed interval that messages are displayed on EMC signs.

Sign: Any object, device, display or structure, or part thereof, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Signs include, but are not limited to: banners, billboards, bulletin boards, directional signs, monuments, home occupation signs, menu boards, reader boards, and tenant directories as by their common interpretations.

Sign Area: The area of a facade for freestanding letters or cut out letters displayed as a sign is the area enclosed within the smallest regular geometric figure (square, rectangle) needed to encompass completely all letters, insignia, or symbols of the sign, including horizontal spacings between letters, insignia, or symbols.

For facade signs other than those composed of freestanding letters, words, insignia, or symbols, that have a background and/or are framed in any manner, the area of the sign is the total area within the outer edge of the frame (border) of the sign.

Sign, Directional: Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one way", "entrance" and "exit".

Sign Face: The area of display surface used for the message.

Sign, Fixed: Any sign attached to a building or structure.

Sign, Height: The height of a sign is the vertical distance from the average ground level abutting a building or structure to the highest permanent part of the sign.:

Sign, V-type: A structure of two signs in the shape of the letter "V" when viewed from above and with their faces oriented in opposite directions. Each face constitutes a separate sign.

Spell on Display Mode: The display mode where each word is spelled out until the entire message appears.

Streamers: A long, narrow flag, pennant or ribbon, frayed or unfrayed, designed to direct or attract attention to an object, person, institution, organization, business, product, service, event, or location.

Sun (Glare) Screen: A perforated metal sheet used over the face of the electronics to reduce glare and to extend bulb life by reducing the exposure to rain.

Temporary Sign: A sign displayed for limited and specific period of time and for those limited purposes set forth in this Ordinance.

Tenant Directory: An on-premise sign which lists the names of individual businesses in a multi-tenant commercial shopping center or office park.

Viewing Time: The length of time a message is visible, determined by the height of the characters, the approximate distance the viewer is from the sign and the legal vehicular speed limit.

e. Signs within Zoning Districts. These specific sign requirements are tailored to the individual zoning districts in order to regulate signs within each district properly and to ensure compatibility with the permitted uses and scale of development.

The following requirements supplement the general requirements and apply to all outdoor signs located in the zoning districts indicated.

1. Signs within Residential Districts zoned R-1A, R-1B, R-1C, R-1D, R-MH, R-TH, R-2, and PUR shall be limited to:

(a) One (1) home occupation sign, not to exceed one (1) square foot in area, posted in the yard or affixed to the building. A permit shall not be required to post or install a home occupation sign, nor shall a license and bond be necessary for the installation of such a sign.

(b) Permanent residential development signs, identifying an addition or neighborhood shall be allowed upon approval of the Planning and Zoning Commission. The number, size and location of such signs shall be determined by the Commission.

(c) One (1) church bulletin board, not to exceed thirty-two (32) square feet in area, located on the same lot as the church building. For churches located in these residential districts, the bulletin board must observe a ten (10) foot setback from the front, side or rear property lines.

(d) Directional signs of an appropriate size and number, may be allowed upon approval of the City Engineer.

(e) Signs within districts zoned PUR shall be limited to signs that are consistent with the approved PUR Site Development Plan.

(f) Child or adult day care homes, also permitted as a Special Use, are restricted to one (1) sign equivalent in size to that permitted a home occupation (one (1) square foot in area), either posted in the yard or affixed to the building.

(g) Residential beauty shops, permitted as a Special Use, are restricted to one (1) sign equivalent in size to that permitted a home occupation (one (1) square foot in area), either posted in the yard or affixed to the building.

(h) One (1) flag pole.

2. Signs within Residential Districts zoned R-3, PMF, and R-4 shall be limited to:

(a) Signs permitted within all other residentially zoned districts.

(b) Multi-family apartments are permitted one (1) free-standing sign per street frontage, not to exceed thirty-two (32) square feet in area, nor eight feet (8') in height, or one (1) facade sign of the same size, per street frontage, or combination thereof.

(c) Hospitals located in an R-3 or R-4 district shall be allowed the type, size and number of signs that would be allowed such a facility if it were located in a Local Commercial District (C-1).

(d) Nursing homes, convalescent homes, retirement centers, or similar establishments, shall be permitted one (1) free-standing sign per street frontage, not to exceed thirty-two (32)

square feet in area, nor eight feet (8') in height, or one (1) facade sign of the same size, per street frontage, or combination thereof.

(e) Bed and breakfast operations located in an R-3 or R-4 district shall be permitted the same signs as that of a multi-family apartment.

(f) Flag poles shall be limited to a maximum number of three (3) poles.

(g) Signs within districts zoned PMF shall be limited to signs which are consistent with the approved PMF Site Development Plan.

3. Signs within Adaptive Re-Use Districts Zoned AR shall be limited to;

(a) Signs permitted in residentially zoned districts.

(b) One (1) freestanding sign, not to exceed thirty-two (32) square feet in area and not to exceed eight (8) feet in height, or one (1) facade sign of the same size.

4. Signs within Office Districts zoned RPO, and POD shall be limited to:

(a) Signs permitted in residentially zoned districts.

(b) One (1) free-standing sign per lot, not to exceed thirty-two (32) square feet in area, nor twenty-five feet (25') in height, and one (1) facade sign per separate business or tenant. Such facade signs shall not exceed sixteen (16) square feet in total area.

(c) The aggregate gross area of the sign(s) shall not exceed forty-eight (48) square feet, except when the total floor area of the office structure(s) on the lot exceed seventy-five hundred (7,500) square feet, whereby one (1) additional bulletin board sign, not to exceed thirty-two (32) square feet, shall be allowed.

(d) Signs within districts zoned POD shall be limited to signs which are consistent with the approved POD Site Development Plan.

5. Signs within Commercial Districts zoned C-1 shall be limited to;

(a) Signs permitted within all residentially zoned districts.

(b) Hospitals and churches located in commercially zoned districts shall be allowed signs as are allowed in a C-1 District.

(c) Facade signs for each separate business shall be allowed as follows:

(1) The maximum size or the total amount of facade signs permitted on any one (1) building facade, is based on the gross vertical area of the facade.

(2) If any one (1) facade of a building contains 100 - 1999 square feet in vertical area, 100 square feet of facade sign(s) shall be allowed for that facade.

(3) If any facade of the building contains 2000 square feet or more in vertical area, nine percent (9%) of the total vertical area shall be allowed in facade signs. An additional three percent (3%) of the facade's area will determine the maximum size

allowable for ancillary signs, advertising services, or products available at that location (e.g., deli, pharmacy, produce, tires, etc.)

(d) One (1) free-standing sign per lot or premises shall be permitted, except corner lots shall be permitted one (1) free-standing sign per street frontage.

(e) One (1) free-standing sign be located on each street frontage provided that the sign shall not exceed one hundred (100) square feet in gross area, nor be more than thirty-five feet (35') in height.

(f) Where the premises have more than one (1) business or other occupant, and the businesses and occupants have names distinct from each other, as in a shopping center, an additional two (2) square feet of sign area for each ten (10) feet of linear street frontage may be allotted per freestanding sign-advertising the premises, with a maximum area of two hundred (200) square feet.

(g) Facade signs, located in districts zoned for building heights in excess of thirty-five (35) feet, shall be allowed to be affixed at the allowed building height.

(h) One (1) reader board sign or tenant directory sign attached to the allowed freestanding sign shall be allowed per lot not to exceed thirty-two (32) square feet in area.

(i) A permanent, free-standing development sign shall be allowed for each development of twenty (20) acres or more. One (1) such sign shall be allowed for each thoroughfare from which there is direct access to the development. Such signs shall not exceed two hundred (200) square feet in area, nor exceed thirty-five feet (35') in height.

(j) One (1) menu board shall be allowed for each drive-thru serving line, per business. Such sign(s) shall not exceed thirty-two (32) square feet.

(k) Electronic Message Center sign, limited to advertising the business, commodity, service, or entertainment conducted, sold, or offered on the premises on which the EMC sign is located.

6. Signs within Commercial Districts zoned C-2, C-3, and C-4 shall be limited to:

(a) Signs permitted in districts zoned C-1.

(b) All signs permitted with districts zoned Planned Commercial District (PCD), shall be limited to signs which are consistent with the approved PCD Site Development Plan.

(c) Facade signs shall be allowed on the lower two floors of a multi-story building, and shall be limited to each business or non-profit organization located on the lower two floors which has a direct, outside entrance. Such signs shall not exceed one hundred (100) square feet of gross sign area per business or organization. There shall also be allowed a sign on the upper floor of each facade, announcing the name of the building or the name of the principal tenant. The maximum allowable size for such signs shall be determined by nine percent (9%) of the facades area above the first floor. In no case, however, shall any letter, insignia, or symbol exceed forty-eight (48) inches in height.

(d) Signs located within the C-3 District shall be permitted to project into the public right-of-way, provided the sign observes a minimum distance of two (2) feet from the back of

curb, and is situated so that the lowest part of the sign is a minimum of nine feet (9') above the first floor ground level. No sign base or support shall be erected within the public right-of-way.

(e) Banners intended for use by sponsors of non-profit community activities such as festivals, conventions, major events, Downtown promotions (excluding advertising) and general street beautification shall be allowed within districts zoned C-3 Central Business District and shall be limited to eighteen inches (18") in width and thirty-six inches (36") in height. The location of these banners shall be limited to period street light standards (poles) with approval of the City and any entity which owns and maintains such light standard or banner brackets.

7. Signs within Industrial Districts zoned M-1, M-2, and M-3 shall be limited to:

(a) Signs permitted within Districts zoned C-2 and C-3.

(b) No more than one (1) billboard sign shall be permitted on any lot having an on premise sign.

f. Freestanding Joint Use Signs.

1. Sign Pooling; A freestanding, joint use sign may be permitted to serve two_(2) or more tracts, each of which would otherwise be eligible for one freestanding sign. The joint use permit may authorize a larger area of a single sign utilized by all tracts than would be permitted for individual freestanding signs serving each tract. The total square footage of informational area shall not exceed eighty (80%) percent of the cumulative area which could be permitted for the individual tracts served by the joint use sign. A joint use sign permit may only be granted in lieu of permits for individual freestanding signs. The total square footage in the informational area for a joint use sign may not exceed 256 square feet.

2. Joint use sign permits;

(a) Before authorization of any Joint Use Sign Permit, the request therefor shall be referred to the City Engineer for study and recommendation by Staff concerning the effect of the proposed use on the character and development of the adjacent land uses. The City Engineer will decide whether to approve or deny the request.

(b) The following information shall accompany all Joint Use Sign Permit applications:

(1) A joint use agreement signed and acknowledged by each participating tract owner.

(2) The joint use agreement shall specify the rights of each owner to use the joint use sign(s).

(3) The joint use agreement shall stipulate that the rights to use the sign through each party to the agreement be set forth and the rights run with the land to the full benefit of the successors of the parties.

(4) A detailed site plan showing location, size, and architectural elevation of all proposed freestanding signs.

(5) A legal description of the area served by the joint use permit and sign and of each individual tract.

3. Decisions of the City Engineer can be appealed through the Zoning Board of Adjustment pursuant to Section 10-251.

g. Streamers.

1. Streamers are allowed within districts zoned C-2, C-3, M-1, M-2, and M-3.

2. The display of streamers by any business requires a streamer permit which is approved and issued by the City Engineer.

(a) Each permit shall be issued for a period of one (1) calendar year.

(b) Upon expiration of the permit, a business may request a new one (1) year permit or all streamers shall be removed.

(c) The application fee for a streamer permit shall be twenty-five (\$25.00) dollars per year.

3. Streamers shall be displayed in compliance with the following guidelines:

(a) The lowest portion of any vertically hung streamer shall be a minimum of nine (9') feet above the first floor ground level.

(b) Shall not be located in or permitted to project into the public right-of- way.

(c) Shall not be attached to any public utility pole and shall be installed so as not to obstruct any electrical or telephone wires or fixtures.

(d) No more than three streamers may be attached or anchored to each pole.

(e) Shall be properly installed so that the reflection emitted will not interfere with the vision of motorist nor shine directly onto residentially zoned property.

(f) Must be kept in good, presentable condition.

(g) Failure to maintain streamers as per the above regulations may result in revocation of the permit by the City Engineer. Appeal of revocation is to the City Manager and City Council as set forth in Chapter 1.

h. Temporary Signs.

The limited posting of temporary signs is permitted within the City, provided the signs are posted under the following circumstances, and adhere to all the regulations prescribed herein.

1. Temporary signs within all zoning districts shall be limited to:

(a) One (1) real estate sign, posted on the premises, advertising the premises for lease, hire or sale. Such sign shall not exceed thirty-two (32) square feet in area, nor exceed eight feet (8') in height. Real estate signs shall only be posted on the lot advertised for lease, hire or sale. On corner lots or lots with frontage on more than one (1) street, one (1) additional sign of the same dimensions shall be permitted per street frontage.

(b) One (1) construction sign, erected on the premises, identifying the job site and announcing the construction or remodeling of a building or structure located on the premises. Such sign shall not exceed sixty-four (64) square feet in area, nor twenty-five feet (25') in height. Construction signs shall be displayed only during the construction phase and shall be promptly removed upon completion of the project.

(c) One (1) development sign, erected on the premises, advertising residential, office, institutional, commercial or industrial development. Such sign shall not exceed one hundred (100) square feet in area, nor twenty-five feet (25') feet in height. Development signs shall only be located within the area being developed. One (1) sign per project or one (1) sign for each thirty (30) acres of development shall be permitted for the duration of the development phase of the project. Upon final completion of the project, all development signs shall promptly be removed.

(d) Non-illuminated political signs are allowed subject to the following regulations;

1. Such signs shall not be erected more than sixty (60) days prior to any elections or referendum concerned and shall be removed ten (10) days following such election or referendum.

2. Political signs may be placed only on private property and only with the property owner's permission.

3. Political signs within residentially zoned areas shall be limited to four (4) square feet.

4. Political signs within all other zoning districts shall be limited to thirty-two (32) square feet.

2. Temporary signs shall not be posted within a public right-of-way or on other public property unless such posting is determined to be in the public interest. The City Engineer has the authority to make such a determination and to approve the location of temporary signs in the public right-of-way through the issuance of a Temporary Use Permit (TUP).

3. Temporary Signs shall not be permitted to span across any public right-of- way.

i. Billboard Signs. Billboards, off-premise signs and similar outdoor advertising shall be allowed in all industrially zoned districts in the City provided the billboard meets all Federal, State, and City requirements.

1. All billboard signs located within the City limits shall adhere to the following requirements:

(a) Billboards shall not exceed a maximum overall height of thirty-five feet (35'), measured from the highest point of the sign to ground level.

(b) Billboard signs shall not be located so as to create a safety hazard, or to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or obstruct the driver's view of approaching, merging or intersecting traffic, or to be likely to cause a driver to be unduly distracted in any way.

(c) Billboard signs shall not be located within fifteen hundred feet (1500') of any public park, public forest, public playground or scenic area, designated as such by the City or any other governmental agency.

(d) Billboard gross sign area shall be calculated as the area enclosed within the outer edge of the frame (border) of each sign face multiplied by the number of faces.

(e) The maximum area for any one (1) billboard sign shall not exceed eight hundred (800) square feet in gross area.

(f) Billboard panels which exceed four hundred (400) square feet in area may not be double faced, stacked or placed side by side.

2. Billboard signs greater or equal to four hundred (400) square feet in gross area shall observe the following locational requirements:

(a) Spacing - The minimum sign separation shall be seven hundred fifty feet (750') from any other billboards. Separation between billboards shall be measured by the linear distance on the same side of the street.

(b) Setback - A minimum distance of twice the sign height shall be observed from any residentially zoned district.

3. Billboard signs less than four hundred (400) square feet in gross area shall observe the following locational requirements:

(a) Spacing - The minimum sign separation shall be three hundred feet (300') from any other billboards. Separation between billboards shall be measured by the linear distance on the same side of the street.

(b) Setback - A minimum distance of twice the sign height from any residentially zoned district.

4. Billboard signs which are illuminated, shall be lighted only by lights which are properly installed, shaded or concealed, and are aimed so that the light will project onto the sign face and will not interfere with the vision of motor vehicle operators, nor shine directly onto nearby residential property located in any residentially zoned district. Illumination of such signs shall not be flashing or intermittent.

5. Billboard signs shall be considered a structure and shall observe all setbacks and structure separation requirements of the zoning district in which they are located.

6. Any non-conforming billboard sign which is damaged or deteriorated to an extent where restoration costs exceed sixty percent (60%) of the cost of erecting a new sign of the same type at the same location, shall be removed.

j. Electronic Message Center Signs.

1. All Electronic Message Center signs located within the City shall adhere to the following requirements:

(a) A "Time and Temperature" EMC sign shall have a minimum hold of 1.5 seconds and a maximum hold of 2.5 seconds.

(b) The maximum area of an EMC sign shall not exceed sixty-four (64) square feet.

(c) No animation of any type, or flashing light, or "spell on" display mode is allowed on any EMC sign.

(d) Every EMC sign shall be equipped with an automatic dimmer device.

(e) The area of the EMC will be counted in the total allowable area of the sign.

(f) All EMC signs shall comply with the appropriate City sign and other regulations.

(g) All EMC signs shall be equipped with a glare screen.

(h) Any malfunctioning EMC sign must be turned off or display a blank screen until repaired.

(i) All electrical equipment shall be UL listed.

(j) All power to an EMC sign shall be supplied via underground carrier, inside approved conduit, and shall be installed according to the City electrical requirements.

(k) All EMC signs shall be kept in good operating condition and maintained with good external appearance.

2. If any non-conforming existing EMC sign is damaged so that repairs would cost as much as sixty percent (60%) of the value of the sign, the sign may be repaired only if it is brought into conformance with this ordinance.

k. Signs donated to the City for use in City parks and recreation areas; temporary signs in City parks and recreation areas. These specific sign requirements are designed to regulate properly all signs donated to the City, and all temporary signs, to be used within each City park and recreation area and within all zoning districts, to ensure compatibility with the permitted uses in said areas, and to limit distractions, obstructions, and visual clutter which are the result of faulty construction or improperly situated signs.

1. Park entrance signs.

(a) Sign face will be 5'0" wide by 4'0" tall.

(b) Sign face will be a minimum 4" thick.

(c) Minimum of .125 aluminum faces and backs.

(d) Colors to match or complement park or recreation area amenities.

(e) 4" X 4" aluminum post painted to match signs.

(f) Applied vinyl graphics.

(g) Sign posts will be set in concrete fill foundation to a depth of not less than 3'0".

(h) Park name at top in minimum 5" vinyl letters.

(i) Sign must include City of Bullard logo in line with Park name.

(j) Sign must include "City of Bullard" in minimum of 1½ vinyl letters above Sponsor information.

(k) Sponsor information to be in bottom portion of sign and no more than 15% of total sign space to be used by sponsor logo or name.

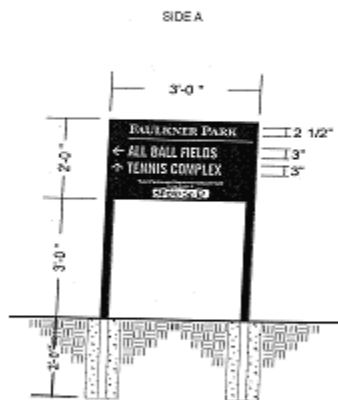
(l) Bottom of sign to be no more or less than 3'0" above ground.

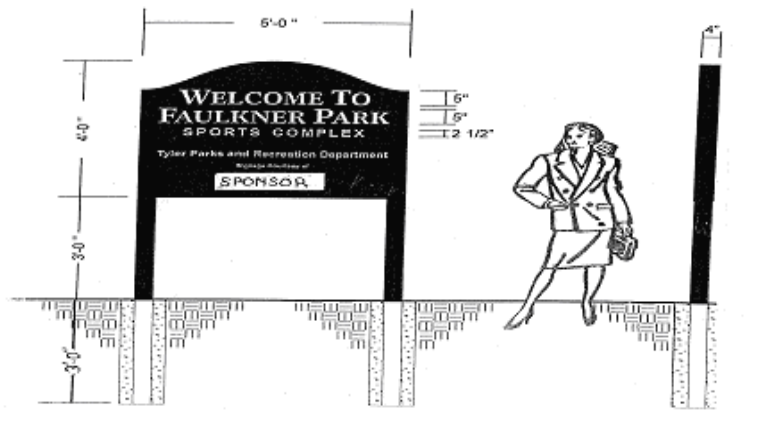
(m) Top of sign not more than 7'0" above ground. Top of posts may include ornamental metal finials as long as top finials do not exceed 7'0" height requirement of sign.

(n) Top of sign may be camel backed or scalloped as long as top of camel back or scallop does not exceed 7'0" height requirement of sign.

(o) All graphics and colors are subject to the approval of Parks and Recreation Director or designee.

(p) And as further shown on the following exhibits:





2. Park and recreation area directional signs.

- (a) Sign face will be 3'0" wide X 2'0" tall.
- (b) Sign face minimum of 4" thick.
- (c) Minimum of .125 aluminum faces and backs.
- (d) Applied vinyl graphics.
- (e) Sign posts will be set in concrete fill foundation to a depth of not less than 2'0".
- (f) Park or recreation area name at top of in minimum 1 1/2" vinyl letters.
- (g) Directions to amenities in minimum 3" vinyl letters.
- (h) Sign must include "City of Bullard" in a minimum of 1" vinyl letters above Sponsor information.
- (i) Sign must include City of Bullard logo in line with Park Name.
- (j) Sponsor information to be in bottom portion of sign and no more than 15% of total sign space to be used by sponsor logo or name.
- (k) Bottom of sign to be to be no more or less than 3'0" above ground.
- (l) Top of sign not more than 5'0" above ground.

(m) Top of posts may include ornamental metal finials as long as top of finials do not exceed 5'0" height requirement of sign.

(n) Top of sign may be camel backed or scalloped as long as top of camel back or scallop does not exceed 5'0" height requirement of sign.

(o) All graphics and colors are subject to the approval of the City Manager or designee.

3. Temporary signs. Temporary signs in City parks and recreation areas, such as advertising signs provided by league sponsors and posted on the inside of baseball diamonds, in City parks and recreation areas shall be governed by City Code Chapter 10, Article IV., including Section 10-247, subsection h.

Section 10-248. Sexually Oriented Businesses.

a. Purpose.

1. It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety, morals and welfare of City citizens, and to establish reasonable and uniform regulations. These regulations prevent concentration of sexually oriented businesses within the City and prevent the establishment of these types of businesses near sensitive areas. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

2. It is not the intent nor effect of this ordinance to determine which sexually oriented materials constitute obscenity. By issuing a Sexually Oriented Business license pursuant to this section, the City of Bullard does not warrant in any way that the operator of the business is in compliance with, or will remain in compliance with, State laws regulating obscenity. Obscenity is determined by the specific provisions of Texas Penal Code Chapter 43 and by local community standards. Obscenity is not determined by the City of Bullard or by this ordinance. In issuing a Sexually Oriented Business license, the City only warrants that, at the time of issuance, the operator is in compliance with the minimum requirements of City building, zoning, fire, and health ordinances.

3. The City Council finds that sexually oriented businesses, because of their very nature have a deleterious effect on both the existing businesses around them and surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values. Numerous studies, reports and findings concerning the harmful effects of sexually oriented businesses on surrounding land uses and neighborhoods have been produced and reviewed, including studies from Abilene and Dallas, Texas.

4. It is the intent of the City Council that the locational regulations of this section are promulgated pursuant to Chapter 243, Texas Local Government Code.

b. Definitions.

Adult arcade means any place to which the public is permitted or invited where coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult bookstore or adult video store means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

2. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

Adult cabaret means a nightclub, bar, restaurant or similar commercial establishment which regularly features:

1. Persons who appear in a state of nudity; or

2. Live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities"; or

3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult motel means a hotel, motel or similar commercial establishment which:

1. Offers, as its principal business, accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. Allows a tenant or occupant of a sleeping room to sublease the room for a period of time that is less than ten (10) hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult theater means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Building official means the building official or designated agent.

Escort means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to perform privately semi-nude modeling or a striptease for another person.

Escort agency means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for fee, tip or other consideration.

Establishment means and includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
3. The addition of any sexually oriented business to any other existing sexually oriented business; or
4. The relocation of any sexually oriented business.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

Nude model studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity or a state of nudity means:

1. The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or
2. A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals or areola of the female breast.

Person means an individual, proprietorship, partnership, corporation, association or other legal entity.

Residential district means a single-family, duplex, townhouse, multiple-family or manufactured home zoning district as defined in the Zoning Ordinance.

Residential use means a single-family, duplex, multiple family, or manufactured home park, manufactured home subdivision and campground use as defined in the Zoning Ordinance.

Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region or areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration;

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one or more of the employees of the establishment is in a state of nudity or semi-nude.

Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

Specified anatomical areas means human genitals, pubic region, buttocks, anus or female breast.

Specified sexual activities means and includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth above.

Substantial enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five percent (25%) as the floor area exists at the date of passage of this ordinance.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

1. The sale, lease or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
3. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

c. Classification. Sexually oriented businesses are classified as follows:

Adult arcades;
Adult bookstores or adult video stores;
Adult cabarets;
Adult motels;
Adult motion picture theaters;
Adult theaters;
Escort agencies;
Nude model studios; and
Sexual encounter centers.

d. License required.

1. It is illegal to operate a sexually oriented business without a valid license, issued by the City for the particular type of business.

2. An application for a license must be made on a form provided by the building official. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who must comply with subpart 18 "Films and Videos" of this section shall submit a diagram meeting those requirements.

3. The applicant must be qualified according to this ordinance and the premises must be inspected and found to be in compliance with the law by the Health District, Fire Department and Building Official.

4. A person who wishes to operate a sexually oriented business and who is an individual, must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified as required herein and each applicant shall be considered a licensee if a license is granted.

e. Issuance of license.

1. The Building Official shall approve the issuance of a license to an applicant within thirty (30) days after receipt of an application unless the applicant:

(a) is under eighteen (18) years of age.

(b) or spouse is overdue in payment to the City of taxes, fees, fines or penalties assessed against applicant or imposed upon spouse.

(c) has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(d) or spouse has been convicted of a violation of this ordinance, other than the offense of operating a sexually oriented business without a license, within two (2) years immediately preceding the application.

(e) is residing with a person who has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(f) cannot show the premises to be used for the sexually oriented business have been approved by the Health District, Fire Department, City Manager, Neighborhood Services, and the Building Official as being in compliance with applicable laws and ordinances.

(g) has not paid any applicable fees.

(h) has been employed in a sexually oriented business in a managerial capacity within the preceding twelve (12) months and has demonstrated inability to operate or manage a sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

(i) or the proposed establishment is in violation of or is not in compliance with any section of this ordinance.

(j) or spouse has been convicted of a crime involving:

(1) Any of the following offenses as described in Chapter 43 of the Texas Penal Code:

- (i) Prostitution;
- (ii) Promotion of prostitution;
- (iii) Aggravated promotion of prostitution;

- (iv) Compelling prostitution;
- (v) Obscene display or distribution;
- (vi) Obscenity;
- (vii) Employment harmful of minor;
- (viii) Sale, distribution or display of harmful material to a minor;
- (ix) Sexual performance by a child;
- (x) Possession or promotion of child pornography;

(2) Any of the following offenses as described in Chapter 21 of the Texas Penal Code:

- (i) Public lewdness;
- (ii) Indecent exposure;
- (iii) Indecency with a child;

(3) Sexual exploitation by mental health service provider; as described in Chapter 81 of the Texas Civil Practice and Remedies Code.

(4) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;

(5) Incest, solicitation of a child, or harboring a runaway child as described in Chapter 25 of the Texas Penal Code; or

(6) Criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses; for which:

(i) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(iii) Less than five (5) years have elapsed since date of the last conviction or date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four-month period.

(k) has been convicted, or whose spouse has been convicted, of an offense listed in herein may qualify for a sexually oriented business license only when the time period required herein has elapsed.

(l) The license, if granted, shall state on its face the name of the person(s) to whom it is granted, the expiration date, and address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

f. Fees. The annual fee for a sexually oriented business license is *six hundred dollars* (\$600.00).

g. Inspection.

1. An applicant or licensee shall permit representatives of the Police Department, Health District, Neighborhood Services Department and Building Inspection Department, and City Manager to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

2. It is unlawful for any operator of a sexually oriented business or agent or employee to refuse to permit a lawful inspection of the premises by a representative of the Police Department at any time it is occupied or open for business.

h. Expiration of license.

1. Each license shall expire one (1) year from date of issuance and may be renewed only by making application as provided in subpart d. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

2. When the Building Official denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to denial, the Building Official finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

i. Suspension.

The Building Official shall suspend a license for a period not to exceed thirty (30) days if it is determined that a licensee or employee has:

1. Violated or is not in compliance with any section of this ordinance.
2. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;
3. Refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance;
4. Knowingly permitted gambling by any person on the sexually oriented business premises;
5. Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.

j. Revocation.

1. The Building Official shall revoke a license if a cause of suspension as set out herein occurs and the license has been suspended within the preceding twelve (12) months.

2. The Building Official shall revoke a license if it is determined that the Licensee or employee:

- (a) gave false or misleading information in the material during the application process;
- (b) has knowingly allowed possession, use or sale of controlled substances on the premises;
- (c) has knowingly allowed prostitution on the premises;

(d) has knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(e) has been convicted of an offense listed herein for which the time period required herein has not elapsed;

(f) On two (2) or more occasions within a twelve-month period, committed an offense occurring in or on the licensed premises of a crime listed herein;

(g) has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as defined in Section 21.01 Texas Penal Code. (This does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in a public place or within public view); or

(h) A licensee is delinquent in payment to the City for hotel occupancy taxes, ad valorem taxes or sales taxes related to the sexually oriented business.

3. When the Building Official revokes a license, the revocation shall continue for one year and the Licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the Building Official finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subpart (e), an applicant may not be granted another license until the appropriate number of years required thereunder has elapsed.

k. Appeal.

If the Building Official denies the issuance of a license, or suspends or revokes a license, written notice of the action and the right to appeal shall be sent to the applicant, or licensee, by certified mail, return receipt requested. The aggrieved party may appeal the decision of the Building Official to the Zoning Board of Adjustment in accordance with section 10-252. The filing of an appeal stays the action of the Building Official in suspending or revoking a license until the zoning board of adjustment makes a final decision.

l. Transfer of license. A licensee shall not transfer a license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

m. Locations of sexually oriented businesses.

1. The location of sexually oriented businesses is allowed in the Industrial Zoning Districts, subject to the distance and licensing requirements of this ordinance.

2. Sexually oriented businesses may not be located within eight hundred (800) feet of:

(a) A church;

(b) A public or private elementary or secondary school;

(c) A boundary of a residential district as defined in this section;

(d) A public park adjacent to a residential district as defined in this section; or

(e) The property line of a lot devoted to a residential use as defined in this section.

3. Measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district or residential lot.

4. The operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business is prohibited. The distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

5. Any sexually oriented business lawfully operating on the date of enactment of this ordinance that is in violation of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed three (3) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

6. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, public or private elementary or secondary school, public park, residential district or residential lot within eight hundred (800) feet of the sexually oriented business. This provision applies only to renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

n. Additional regulations for escort agencies.

1. An escort agency shall not employ any person under the age of eighteen (18) years.

2. It is illegal for any person under the age of 18 years to act as an escort or agree to act as an escort.

o. Additional regulations for nude model studios.

1. A nude model studio shall not employ any person under the age of eighteen (18) years.

2. It is illegal for a person under the age of eighteen (18) years to appear in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under eighteen (18) years was in a restroom not open to public view or persons of the opposite sex.

3. It is illegal to appear in a state of nudity or knowingly allow another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

4. A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

p. Additional regulations for adult theaters and motion picture theaters.

1. It is illegal to allow knowingly a person under the age of eighteen (18) years to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

2. It is illegal for a person under the age of eighteen (18) years to appear knowingly in a state of nudity in or on the premises of an adult theater or adult motion picture theater. It is a defense to prosecution under this subpart if the person under eighteen (18) years was in a restroom not open to public view of persons of the opposite sex.

3. It is illegal for the owner, manager, operator, assistant manager, assistant operator, ticket seller, ticket taker, usher or any other person connected with or employed by any motion picture theater or drive-in motion picture theater to show or exhibit at a motion picture theater or drive-in motion picture theater in the City, or to aid or assist in such showing or exhibition, any motion picture, film, slide or other exhibit which is visible from any public street in which the pubic area, bare buttocks or bare female breasts of the human body are shown.

q. Additional regulations for adult motels.

1. Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this section.

2. It is illegal for the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business license to rent or sub-rent a sleeping room to a person and, within ten (10) hours from the time the room is rented, rent or sub-rent the same sleeping room again. The terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

r. Regulations pertaining to exhibition of sexually explicit films or videos.

1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead light fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of the floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Building Official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Building Official or designee;

(d) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured so that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured so that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It is the duty of the owners and operator, as well as any agent and employees present in the premises, to ensure that the viewing area remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection r.1. of this section.

(g) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) footcandle as measured at the floor level.

(h) It is the duty of the owners and operator, as well as any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

2. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more projection stations and the location of all projection screens and sound fixtures and designating any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professional prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various dimensions of all areas of the premises to an accuracy of plus or minus six (6) inches. The Building Official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a projection station or projection screen may be made without prior approval of the Building Official or designee;

(d) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated at each projection station at all times that any patron is present on the premises.

(e) The exterior of the premises shall be configured so that the screens are not visible from any public thoroughfare or from adjacent property. Additional screening may be required if deemed necessary by the Building Official.

(f) It shall be the duty of the owners and operator, as well as of any agent and employees present in the premises, to ensure that the viewing and lobby areas remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection a. of this section.

3. It is illegal for a person having a duty set out in this section to fail knowingly to fulfill that duty.

s. Display of sexually explicit material to minors.

1. It is illegal in a business establishment open to persons under the age of seventeen (17) years, to display a book, pamphlet, newspaper, magazine, film or video cassette, the cover of which depicts in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual lust or perversion for commercial gain, any of the following:

(a) Human sexual intercourse, masturbation or sodomy;

(b) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;

(c) Less than completely and opaquely covered human genitals, buttocks or that portion of the female breast below the top of the areola; or

(d) Human male genitals in a discernible turgid state, whether covered or uncovered.

2. In this section "display" means to locate an item so that, without obtaining assistance from an employee of the business establishment:

(a) It is available to the general public for handling and inspection; or

(b) The cover or outside packaging on the item is visible to the public.

t. Enforcement.

1. A conviction violating subpart d. or m. is punishable by a fine not to exceed one thousand dollars (\$1,000.00).

2. A conviction violating a provision of this section other than subparts d. or m., is punishable by a fine not to exceed two hundred dollars (\$200.00). Fines are as further set out in Code Section 1-4.

3. It is a defense to prosecution that a person appearing in a state of nudity did so in a modeling class operated:

(a) By a proprietary school licensed by the State, a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferrable to a college, junior college or university supported entirely or partly by taxation;

(c) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(2) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude model is on the premises at any one time.

4. It is a defense to prosecution that each item of descriptive, printed, film or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political or scientific value.

5. A person who operates or causes to be operated a sexually oriented business without a valid license or otherwise violates this section is subject to a suit for injunction as well as prosecution for criminal violations.

6. A person who operates or causes to be operated, a sexually oriented business in violation of the State obscenity laws (Texas Penal Code Chapter 43) is subject to those penalties set forth in State law.

u. Amendment of this section.

Subpart m. of this section may be amended only after compliance with the procedure required to amend a zoning ordinance. Other subparts of this section may be amended by vote of the City Council.

Section 10-249. Planning and Zoning Commission.

a. There is hereby created a Planning and Zoning Commission, (hereinafter P&Z Commission) which shall consist of seven (7) members.

b. The P&Z Commission shall act and function as the City municipal planning commission. The P & Z Commission shall have the power and duty to make and adopt rules and regulations governing its procedure. The Commission shall make, adopt and recommend to the City Council a Master Plan for the physical development of the City, including any area outside of its boundaries and within three and one-half (3½) miles thereof which in the Commission's judgment may bear a relation to City planning, subject to state law limitations. Such Master Plan with accompanying maps, plats, charts, and descriptive matter shall show the Commission's recommendation for City development as well as the territory within the area above mentioned and among other things, the general location, character, and extent of the streets, viaducts, subways, bridges, waterways, boulevards, parkways, playgrounds, squares, parks, aviation fields and other public ways, grounds and open spaces, the general location of public buildings and other public property and general location and extent of public utilities and terminals, either publicly or privately owned and operated, water, lights, sanitation, transportation, communication, power and other purposes. The Master Plan shall also show the removal, relocation, widening, narrowing, vacation, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings or property, utilities or terminals, as well as a Zoning plan for the control of the height, area, bulk, location and use of buildings and premises, subject to the limitations set forth in state law.

The Commission may from time to time adopt and publish a part of the plan covering one (1) or more major sections or City subdivisions or one (1) or more of the aforesaid or other subject matter. The Commission may

from time to time amend, extend, or add to the plan, and said Commission shall also have all of the powers and duties vested, created, and granted by state law.

c. The Commission shall also act and function as the City zoning commission, and shall have all powers granted by state law.

d. The Commission shall also review all applications for annexation and recommend action to the City Council.

e. Training. Within one year of assuming duties, and on an annual basis thereafter, Commission members shall attend at least one training session or seminar that addresses zoning issues.

Section 10-250. Zoning Changes, Procedures and Administration.

a. Procedure. This Ordinance and accompanying zoning district map have been adopted by the City Council to serve as the official Zoning Ordinance and Zoning District Map for the City. Provision is hereby made for amending this Ordinance and the Zoning District Map under the following conditions:

1. Any proposed amendments, supplements or changes to this Ordinance or to the Zoning District Map instituted by the City Council shall first be submitted to the Planning and Zoning Commission for its consideration and recommendation.

2. Any person or corporation having a proprietary interest in any real property located within the City, including a lessee, developer, option holder or other agent authorized by the property owner(s), may initiate the proceedings to consider a change in the zoning of such property by filing an application with the City Manager, provided that before any action shall be taken as provided in this Section, the party or parties petitioning for the change in zoning shall deposit with the City a sum of money to cover the approximate cost of this procedure.

3. Any person or corporation may petition the City Council to amend or change the text of this Ordinance by filing a written request for such an amendment or change with the City Manager, provided that before any consideration shall be given, the party or parties requesting the change shall deposit with the City a sum of money adequate to cover the costs associated with the consideration of amendments to this Ordinance.

b. Application. Each application for zoning, rezoning, Special Use Permit or for an amendment or change to the existing provisions of this Ordinance, shall be made in writing on a form suitable to the City Manager. Such application shall be filed with the City Manager and shall be accompanied by payment of the appropriate fee to be charged by the City for administering such application.

1. Application Fees. The application fee is non-refundable, and under no circumstances or conditions shall said sum of money or any part thereof be refunded for failure of such proposed zoning, rezoning, Special Use Permit or amendment to be enacted into law.

2. Application Form and Content. The Zoning Application and application for a Special Use Permit, shall contain sufficient information relative to the zone change or the special use requested.

(a) To ensure the submission of adequate information, the City Engineer is hereby empowered to draft such application(s) and prepare a list of specific requirements required of each applicant requesting a zone change or Special Use Permit.

(b) Upon periodic review, the City Engineer may update or otherwise revise such requirements for zoning and Special Use Permit applications.

(c) Petitions requesting an amendment or change to the requirements and regulations of this Ordinance shall be submitted in the form of a letter specifying the amendment or change requested. Additional documentation may be submitted in conjunction with the letter to support the request and further convey the need for the amendment or change.

3. Application Acceptance/Withdrawal. The following provisions shall apply to the acceptance of all applications or petitions and shall regulate the scheduling of public hearings, and shall provide a method whereby an applicant may request that the public hearing be rescheduled or the application withdrawn.

(a) Upon receipt of a completed application for zoning or a Special Use Permit requesting an amendment to this Ordinance, the City Manager, subject to the appropriate application deadline, will schedule the request for a public hearing before the Planning and Zoning Commission at its next regularly scheduled monthly meeting.

(b) Prior to the date for issuance of the notice of such public hearing, the applicant may, by written request, withdraw the application or request rescheduling of the public hearing to a later meeting of the Planning and Zoning Commission.

(c) Once public notice is issued, the applicant may withdraw the application or reschedule the public hearing, only with the approval of the Planning and Zoning Commission. The Planning and Zoning Commission may reject a request to withdraw an application or to reschedule the public hearing, and may proceed to conduct the public hearing as notified and take action as appropriate within the context of the public notice provided.

4. Public Hearings. Two (2) public hearings shall be held, one (1) by the Planning and Zoning Commission and one (1) by the City Council, before adoption of any proposed amendment, supplement or change to the text of this Ordinance or the Zoning District Map.

5. Public Notification. Public notice shall be required for the public hearings required in Number 4 above. The following provisions shall apply to such notice.

(a) When any amendment or change relates to a change in a zoning classification or to the boundary of a zoning district, or the issuance of a Special Use Permit, written notice of both the public hearings before the Planning and Zoning Commission and the City Council concerning the proposed zone change or Special Use Permit, shall be mailed to all owners of real property which is subject to the zone change or permit, and to all owners of real property situated within two hundred feet (200') of the property on which the zone change or permit is requested.

(b) Notification of real property owners shall be given not less than fifteen (15) days before the date set for the public hearing, by depositing in the mail such notice properly addressed and postage paid to each real property owner as recorded on the current Smith/Cherokee County Appraisal District tax roll.

(c) On or about ten (10) days prior to the date of the first public hearing, before the Planning and Zoning Commission, the City Manager shall post a sign(s) on the property under consideration announcing the proposed zone change or requested special use. Such signs shall contain the date of the public hearing; for rezonings shall indicate the current zoning status of the property and the requested zone change; and for Special Use Permits, the proposed special use.

(d) When any such amendment relates to a change of a zoning regulation or to the text of this Ordinance not affecting specific property, notice of the public hearing of the City Council shall be given by publication in a newspaper of general circulation in the City without the necessity of notifying property owners by mail. Such notice shall state the time and place of such

hearing and the nature of the subject to be considered, which time shall not be earlier than fifteen (15) days from the date of publication.

6. Council Action. Council Action. In the case of a written protest against such change, signed by the owners of at least twenty percent (20%) of either 1) the total area of the lots or land included in such proposed change; or 2) the area of the lots or land immediately adjoining proposed change and extending two hundred feet (200') therefrom, such amendment shall not become effective except by the favorable vote of three-fourths of all of the members of the City Council.

The provisions of this Ordinance or the boundaries of the Zoning District Map may from time to time be amended, supplemented, changed, modified, or repealed.

7. Appeals. If the Planning and Zoning Commission decides not to commend an amendment, zone change or Special Use Permit to the City Council for final approval, the applicant or the proponents of such amendment, zone change, or Special Use Permit, have a period of ten (10) calendar days from the date of the Commission meeting in which to file a written appeal during normal business hours with the City Manager requesting Council consideration of their request.

8. Reconsideration. Should the decision of the Planning and Zoning Commission not be appealed to the City Council by filing a written notice of appeal with the City Manager; or the City Council should fail to pass an ordinance approving such amendment, supplement or change, or the application for a proposed amendment, supplement or change is withdrawn, then in any of these events, a new application for such proposed amendment, supplement or change in the Zoning Ordinance may not again be considered until after the expiration of six (6) months from the date such proposed amendment, supplement or change was disapproved or withdrawn. The procedures for such application for rezoning or a Special Use Permit shall be the same as if the applicant had never filed a previous application for a zone change or permit

Section 10-251. Zoning Board of Adjustment.

a. Created; members; vacancies. There shall be a Board of Adjustment consisting of five (5) members and two (2) alternate members to be appointed by the City Council. An alternate member shall serve in the absence of one (1) or more of the regular members. All cases to be heard by the Board will always be heard by a minimum of four (4) members or members and alternates.

b. Meetings. The Board shall adopt rules in accordance with this section. Meetings of the board shall be held at the call of the chair and at such other times as the Board may determine. Such chair, or in the chair's absence the acting chair, may administer oaths and compel the attendance of witnesses. All Board meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing all official actions, which shall be filed in the City Manager.

c. Appeals to the Board may be taken by any person aggrieved or affected by any decision of any administrative official. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the City Manager and with the Board a notice of appeal specifying the grounds thereof. The notice of appeal shall be accompanied by a filing fee of *one hundred fifty dollars (\$150.00)*. The City Manager shall forward to the board all papers constituting the record upon which the action appealed from was taken.

d. The powers of the board are:

1. To hear and decide appeals where it is alleged there is an error in any decision made by any administrative official in the enforcement of the zoning ordinance.

2. To permit the following exceptions to the provisions of the zoning ordinance:

(a) The reconstruction of a nonconforming building which has been damaged by fire, act of God, or the public enemy to the extent of more than seventy (70) percent of double its assessed value, as listed on the records of the city tax department where the board finds that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare.

(b) The erection and use of a building or the use of premises in any location for a public service corporation for public utility purposes which the board deems reasonably necessary for the public convenience or welfare.

3. To authorize upon appeal in specific cases such variance from the terms of the zoning ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship, and so that the spirit of the zoning ordinance shall be observed and substantial justice done; however, no variance may be granted unless the board finds all of the following:

(a) The granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant.

(b) The authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the damages of fire or impair the public safety or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.

(c) The granting of the application will not be contrary to the plan of development for the general area.

4. In exercising the above-mentioned powers and in determining whether the required special conditions and hardships are present, the board may consider the size and shape of the subject property, any and all financial considerations to the applicant, and any other matters that the board determines material to the application.

e. Public hearings and permits issued by board. In exercising the above-mentioned powers, the board may reverse or affirm, wholly or partly, or may modify the decision appealed.

1. The concurring vote of four (4) members of the board or members and alternates shall be necessary to reverse any decision of any administrative official, to decide in favor of the applicant, or to effect any variation in such ordinance.

2. Any special exceptions or variances authorized by the Board, either under the zoning ordinance, or under authority of state law shall authorize the issuance of a building permit or certificate of occupancy, as the case may be, within ninety (90) days from the date of the favorable Board action unless the Board grants a longer period. If the building permit or Certificate of Occupancy have not been issued within said ninety-day period, or such extended period as the Board may grant, then the special exceptions or variances shall be deemed waived, and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent application for a special exception or appeal for a variance to the board in accordance with applicable rules and regulations.

3. No application for a special exception or appeal for a variance to the Board may be allowed on the same piece of property prior to the expiration of six (6) months from a ruling of the Board on any application or appeal unless other property in the same zoned area shall have, within such six-month period, been altered or changed by a Board ruling, in which case such change or circumstances shall permit the allowance of any application or appeal but shall not compel the Board after a hearing to grant such

subsequent application or appeal, but such application or appeal shall be considered on its merits as in all other cases.

f. Appeals from action of the board. Any person(s), jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, may present to a court of record a petition, duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision of the City Manager. **(Note)**

Section 10-252. Swimming Pools/Spas

a. Purpose: To provide for the installation of swimming pools and spas, which uses are subordinate to the primary use of the lot.

b. Required conditions.

1. Single Family and Two-Family residential swimming pools or spas shall comply with the following:

(a) No swimming pool or spa shall be built or assembled upon a lot until a permit for construction of the primary structure on such lot has been obtained from the Building Official.

(b) Swimming pools or spas shall not be located in the established front yard.

(c) A minimum setback of five feet (5') shall be required between the water line of any pool or spa and the primary structure.

(d) A minimum setback of five feet (5') shall be required between the water line of any pool or spa and the interior side or rear property line.

(e) A minimum setback of twelve feet (12') shall be required between the water line of any pool or spa and the side street property line.

(f) Accessory structures such as slides and diving boards shall be located a minimum of five feet (5') from any property line.

(g) All accessory buildings such as pool houses and equipment storage rooms shall comply with Section 10-236.

(h) The requirements in this Section are in addition to the fencing requirements set forth in Section 6-14 and/or Chapter 6, "Buildings and Structures".

(i) Swimming pool and spa setbacks for properties zoned Planned Residential or Townhouse District shall be determined by the developer, shall be subject to approval by the Planning and Zoning Commission and City Council as part of the Site Development Plan, and shall comply with all private deed restrictions.

(j) Portable spas are exempt from the setback requirements in this Section.

2. Commercial and Multi-Family swimming pools or spas shall comply with the following:

(a) No swimming pool or spa shall be built or assembled upon a lot until a permit for the construction of the primary structure(s) on the lot has been obtained from the Building Official.

(b) A minimum setback of five feet (5') shall be required between the water line of any pool or spa and the principal building(s).

(c) A minimum setback of five feet (5') shall be required between the water line of any pool or spa and the property line(s).

(d) Accessory structures such as slides and diving boards shall be located a minimum of five feet (5') from any property line.

(e) All accessory buildings such as pool houses and equipment storage rooms shall comply with Section 10-236.

(f) The requirements in this Section are in addition to the fencing requirements in Section 6-14 and/or Chapter 6, "Buildings and Structures".

(g) Swimming pool and spa setbacks for properties zoned Planned Commercial District or Planned Multi-Family District shall be determined by the developer, shall be subject to approval by the Planning and Zoning Commission and City Council as part of the Site Development Plan, and shall comply with all private deed restrictions.

ARTICLE V. RIGHT OF WAY CLOSURE AND NAME CHANGE

Section 10-300. Thoroughfare or right-of-way closures; Name changes

a. Definitions.

Thoroughfare means any public street, alley or other public right-of-way that has been accepted and appropriated by the City by use, entry, or improvement.

b. Requests. Requests for thoroughfare closures or a name change shall be made by filing an application with the City Manager on a City form. Such requests must be delivered to the department with the required fee at least twenty-eight (28) days prior to the public hearing by the Board. The request for name change must be joined and signed by all owners on the street.

c. Fees. The applicant shall include with the application a non-refundable filing fee in the amount of *one hundred fifty dollars (\$150.00)*. Such fee shall be applied to the cost of processing applications.

d. Notices.

1. Before Planning and Zoning Commission. Thoroughfare closure. Written notices shall be sent to all owners of real property whose property lies within two hundred (200) feet of the requested thoroughfare closure excluding all rights-of-way. Such notices shall be given not less than fifteen (15) days before the date of public hearing before the Commission. Ownership will be determined from the latest approved City tax roll. Notices shall contain the date, time and place of the public hearing, and a description and location of the requested closure.

2. Name Change. Written notice as described in number 1 above sent by City Manager to all land owners on the street.

3. Before Council. Notice of public hearings before the Council shall be given by publication in a newspaper having general circulation in the City not less than fifteen (15) days prior to the date of such hearing. The contents of such notice shall be as set forth in d.1. above.

e. Public hearings.

1. Commission. The Commission shall hold at least one public hearing on all requests for thoroughfare closures and name changes.

2. City Council. The Council shall hold at least one public hearing on all requests brought before it either by appeal or upon favorable recommendation by the Commission.

f. Action by Commission. The Commission shall submit its recommendation to the Council via the City Manager. Requests denied by the Commission may be appealed to the Council, as herein provided. Failure to appeal within the time prescribed shall render the action of the Commission final.

g. Appeals. Appeals from the recommendation of denial by the Commission shall be made by filing a written notice with the City Manager not less than ten (10) days after denial by the Commission.

h. Action by Council. The Council shall hear only those requests for thoroughfare closures affirmatively recommended by the Commission or appealed to it as herein provided. The action taken by the Council shall be final.

i. Reapplication. When a request for a thoroughfare closure has (1) been denied by the Commission and not appealed to the Council, or (2) has been heard by the Council and denied, similar requests shall not be accepted by the City Manager for a period of six (6) months from the date of the submission of the original request, unless such application contains a statement of facts tending to show a substantial change of conditions in the area affected. In such cases, such application shall be processed and placed before the Commission who shall not take any final action thereon until an affirmative finding of changed conditions has been made by such Commission.

Sections 10-301 - 10-349. Reserved.

ARTICLE VI. OIL AND GAS

DIVISION A. GENERAL PROVISIONS APPLYING TO OIL & GAS EXPLORATION AND PRODUCTION

Section 10-350. Definitions.

For purposes of this Chapter, the following words shall have the meanings defined herein:

City block. A regularly constituted block, bounded by two (2) streets or platted public right-of-way, designated and shown upon the plat or City map.

Completion or completion date. The date shown in the Texas Railroad Commission Form to indicate that all well drilling activities have been completed and the well is ready for production as the prerequisite to receiving an allowable from the Texas Railroad Commission.

Lease. Any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as one lease, and any tract of land in which the minerals are owned by an operator or someone holding it for operator, but which, due to the fee royalty ownership, is developed and operated as a separate tract.

Minimum site plan. A site plan and map accompanying each permit application that includes as a minimum the following information:

1. Proposed wellhead location, graphically displayed;
2. Proposed access route, from the proposed wellhead to the public thoroughfare proposed for access;
3. Probable location of all pits;
4. Probable pipeline route;
5. Probable location of any separator, tank, or other similar equipment;
6. Approximate size and shape of the well site (footprint).

Permit. A Level A, Level B, or Level C drilling permit required to be issued under this ordinance as a prerequisite to beginning oil or gas drilling activity in the City limits, or an annual operating permit for an operating oil or gas well.

Permittee. The person to whom a permit is issued for the drilling and operation of a well under this Chapter, that person's administrators, executors, heirs, successors, and assigns.

Person. Shall include both the singular and the plural, and shall mean and include any person, individual, firm, partnership, association, corporation, club, society, cooperative, trust, municipal corporation or political subdivision.

Technical words or phrases. All "technical" oil and gas industry words or phrases used in this Chapter and not specifically defined herein shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry.

Well. Includes any hole(s), bore(s) drilled or used for producing and recovering oil, gas, or liquid hydrocarbon.

Wellhead. The exact center of the location where the driller inserts the drill bit for purposes of drilling the well; the wellhead for the purposes of this Chapter shall also be known as the "hole."

Section 10-351. City Engineer responsible; enforcement.

The City Engineer is hereby designated to enforce the provisions of this Chapter and to make all necessary inspections and issue citations incident to obtaining compliance by all Permittees with the requirements of this Chapter. The City Attorney is authorized to undertake any necessary legal action, including suit for injunctive relief, to compel compliance with the terms of this Chapter.

Section 10-352. Compliance with All Federal and State Law Requirements.

Each Permittee under this ordinance, or owner or operator of any oil or gas well in the City limits shall conduct all drilling and operating activities of said oil or gas well in full and complete compliance with any and all applicable state or Federal laws, rules, regulations, or other requirements.

Section 10-353. Permit Required.

It is unlawful for any person, acting either for himself or acting as agent, employee, independent contractor or servant of any other person, to commence to drill or to operate any well within the City limits without conducting such activity in compliance with the terms of this Chapter, including the requirement for a permit for the drilling and operation of such well. Wells in place and operating at the effective date of this ordinance shall be grandfathered and may continue to operate so long as they comply with the regulations under which they were drilled and Division F herein.

Section 10-354. Location in or Obstruction of Streets.

No well may be drilled and no permit shall be issued for any well to be drilled at any location which is within any City streets or alleys. No street or alley shall be blocked or encumbered or closed in any drilling or production operation, except by special order of the City Council, and then only on a temporary basis as shall be stipulated by the City Council.)

Section 10-355. Premises to be Kept Clean and Sanitary.

The premises of every well location shall be kept in a clean and sanitary condition, free from rubbish of every character, to the satisfaction of the City Engineer and the Smith County Health District, at all times drilling operations or reworking operations are being conducted and as long thereafter as oil and/or gas is or may be produced therefrom. This requirement shall also apply to temporarily abandoned or shut-in wells. Compliance with sanitation requirements shall include locating on the immediate drill site temporary bathroom facilities for the use of all personnel working at the drilling site.

Section 10-356. Watchman.

When appropriate, the City Engineer may require the Permittee to maintain a watchman or other personnel on duty on the premises at needed times during initial drilling, completion or workover of a well. It shall not be

necessary to keep an extra watchman on duty on the premises when other workmen of Permittee are on the premises.

Section 10-357. Noise Regulations.

a. It is unlawful to operate or permit to be operated in connection with the drilling, completing, equipping, or abandoning of a well any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 72 dB(a) when measured at a distance of three hundred feet (300') from the engine or measured immediately adjacent to any inhabited building not used in the drilling operation and located before commencement of drilling within the three hundred foot (300') distance; provided, however, a maximum sound level of 80 dB(a) shall apply to fracturing operations in connection with a well, and fracturing operations shall be conducted only during the hours of 7:00 a.m. to 7:00 p.m.

b. It is unlawful to operate or permit to be operated in connection with the operation of a producing well any engine, compressor or motor-driven machinery of any type which creates a sound level greater than 65 dB(a) when measured at a distance of three hundred feet (300') from the engine and measured immediately adjacent to any inhabited building located prior to installation of such equipment within the three hundred foot (300') distance.

c. Motor power for all operations after completion of drilling operations shall be by electricity or properly muffled gas or diesel engines. The muffler shall be of a type appropriate to operations; provided, however, that specialty mufflers may be required by the City Engineer, such as hospital zone mufflers, or the engines may be so designed or configured on the site to further attenuate anticipated noise problems during operation of the well.

d. Sound level measurements shall be made with a sound level meter conforming as a minimum to the requirements of American National Standards Institute S1.4-1971 Type 2 or its successor publication and set to an A-weighted response.

Section 10-358. Pits.

The type of pit used in drilling operations shall be specified at the time of permitting. The pit and its contents shall be removed from the premises within ninety (90) days after completion of the well; provided, however, that the Permittee may apply for a 90-day extension from such requirements based on a showing of good cause, necessity to maintain said pit, inclement weather, or other factors. The City may designate a period of time shorter than the 90-day extension set out herein. Upon completion of use of earthen pits, such pits shall be filled and leveled in accordance with the time periods set out herein.

Section 10-359. Fence Required upon Completion.

When appropriate, the City Engineer shall require the owners of each well upon completion thereof to enclose such well, together with all surface facilities and storage tanks, with a fence, having a minimum height of six feet (6') with all gates to be locked except when the Permittee or Permittee's employees are actually within the enclosure. The City may approve the erection of a fence made of wood or other material if such fence shall be at least six feet (6') in height. The Permittee shall maintain the fence to the reasonable satisfaction of the City Engineer.

Section 10-360. Maintenance of Drill Site and Roads.

a. The drill site and all roads and drives providing vehicular ingress and egress to the well site during the drilling process shall be maintained so as to prevent dirt, dust, or other similar materials from such roads and well sites from being carried in or deposited by the elements into the air or upon any public street, sidewalk or other public property or upon the property of another person.

b. If said well is completed as a producing well and actual production commences, Permittee shall construct and maintain a private road(s) (at either the same location as the original access road or at a new location approved in advance by the City Engineer) sufficient to provide vehicular ingress and egress to the well site from a location along a public road, the entrance to such public road to be approved by the City Engineer. Said private road, at a minimum, shall be maintained free of dust, dirt or mud so as to prevent the deposit therefrom of dirt, dust or other similar material on, along or upon any public street, sidewalk or other public property, or upon the property of a third party. That portion of the private roadway located within the right-of-way of a public street shall comply to the construction standards for commercial driveways. Such roadways shall be so maintained until said well is plugged and abandoned.

c. Upon completion of said well, or abandonment of same, Permittee will grade, level and restore the drilling site and other affected property in conformance with the City's drainage control ordinance.

Section 10-361. Flaring and Burning of Escaping Gas.

Except as otherwise provided herein, no person engaged in drilling or operating any well may permit gas to escape or be vented from the well bore into the air, unless the gas is flared and burned. All gas flared or burned from a torch, pipe or any other burning device within the City limits must be done so as not to constitute a fire hazard to any property, and the location of the torch, pipe, or other burning device and the construction, maintenance and operation thereof shall at all times be in compliance with applicable regulations of the Texas Railroad Commission. The Fire Marshall shall be given 24 hours advance notice of any flaring activities, and such notice shall indicate to the Fire Marshall the exact date and time and anticipated length of the flaring procedure.

Section 10-362. Venting.

Venting is not permissible in the drilling or operation of any oil or gas well except as otherwise stated herein. If the driller or operator is required to vent gas to the atmosphere in order to pump oil, or to maintain safety, or for other acceptable reasons, said driller or operator is required to request the approval of the City Engineer prior to venting, except in emergency situations. The City Engineer shall investigate the circumstances necessitating such venting, and shall approve same unless such venting would present a threat to the public health, safety, or welfare, or would otherwise be in violation of this ordinance or state or federal law requirements. Except in emergency situations, failure to notify and obtain approval from the City Engineer prior to venting shall subject violator to appropriate penalties set out in this ordinance.

Section 10-363. Inventory of Hazardous Chemicals on Drilling Sites.

Each person owning or operating an oil or gas well in the City limits, shall provide the Fire Department a current inventory of hazardous materials used on said operator or owner's drilling or production site. All such hazardous materials located at any drilling or production site shall have the appropriate diamond shape and number clearly visible delineating the material contained therein.

Section 10-364. Emergency Answering Service Required 24 Hours a Day; Posted Emergency Number.

a. Each operator conducting oil and gas activity in the City limits, shall have available and maintain 24 hours a day, 365 days a year a telephone answering service designed to allow any caller thereon to notify the operator of observed or perceived problems at the drilling or production site. Operators may use a unified answering service provided such service will permit rapid notification of the operator.

b. Each well site shall have posted a sign clearly indicating in letters a minimum of two inches in height the telephone number of the 24-hour emergency answering service required herein.

Section 10-365. Shutoff Valve or Switch.

Each producing well located within the City limits shall maintain a shutoff valve or switch located thereon, clearly painted in a unique identifiable color approved by the Fire Marshall's office, which such valve or switch shall upon actuation be capable of terminating all production activity from the well. The Fire Department is hereby authorized in its discretion to actuate said valve or switch and close same in the event of any emergency.

Section 10-366. Keyed Lock to Well Site.

Each Permittee shall provide the Fire Marshall with the opportunity to install a separately keyed lock or other similar device to allow the City access to the well site during any emergency.

Section 10-367 through 10-370. Reserved.

DIVISION B. GENERAL PROVISIONS APPLYING TO ALL PERMIT APPLICATIONS

Section 10-371. Notice of Drilling Application.

a. Simultaneous with, or immediately before, the filing of any permit application required by this Chapter, the applicant shall post a sign at the location of the proposed access routes for the well or immediately adjacent to each entrance to the actual proposed well site, whichever location(s) shall be more visible. If possible, said sign must be placed in a location easily visible from any adjacent street or thoroughfare, or if no such location is available, then at the most highly visible location available. The sign shall contain lettering a minimum of two (2) inches in height in the following general format:

PROPOSED ACCESS/ENTRY POINT

FOR AN OIL/GAS WELL SITE

A detailed site map can be reviewed at the City Hall. If you have questions or input, call 903-894-7223. Comments will be received from any interested citizens through _____ (ten days following the date of filing of the application).

b. The processing of the permit application will not begin, nor shall any time period begin to run, until a sign has been posted by the permit applicant. Following the filing of the application and the posting of the sign, interested citizens shall have ten (10) calendar days to make comments to the City Engineer regarding the proposed application. In addition, all application materials shall be available for inspection during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

Section 10-372. Application and Filing Fee.

Every application for a permit to drill and operate a well shall be in writing, signed by the applicant or by some person duly authorized to sign same on the applicant's behalf, shall be filed with the City Engineer (who shall notify Water Utilities), and shall be accompanied with a filing fee of *one thousand dollars (\$1,000.00)*. Each application shall be a request for a permit to drill and operate a single well. The application shall include all necessary information, including but not limited to the following:

1. Date of said application.

2. Name and address of the applicant, and if the applicant is a partnership, the names and addresses of the general partners.

3. If the applicant is a corporation, the names of the local agent, president, and chief executive officer of the corporation, name and address of the agent for service of process of the corporation, and the address of the local offices and the principal corporate offices.

4. Proposed site of the well, including

(a) name and address of the fee surface owner(s) of record.

(b) name and address of the lease owner(s) of record.

(c) brief description of the land.

5. Minimum site plan.

6. Description of all pits.

7. All information necessary to determine what level permit is required for issuance under this Chapter.

8. All specific information required as a result of determining the level permit to be issued. If a Level B or Level C permit is required, then a plat prepared by a duly licensed surveyor must be included showing the lots or tracts on which said well is located, the exact location of the proposed well, distances from well location to the exterior boundary lines of the tract on which the well is drilled and the distances from the well location to all residences, schools, churches, hospitals or commercial buildings situated within three hundred feet (300') of the well location.

9. Proposed total depth of the well.

10. The proposed type of blowout prevention device shall be stated in the application. Blow out preventers shall be given a test for ability to function once a week during drilling operations. In addition to the function tests, if a well is planned for drilling into formations determined by the Railroad Commission to be hydrogen sulfide bearing, the blow out preventers shall be tested in accordance with Railroad Commission protocol applying to sour gas wells.

11. List of all waivers, including the expiration date of each, required by Section 10-373.

12. A statement that all information in the application is true and correct.

Section 10-373. Location of Well near Residence or Commercial Buildings; Permission of Adjacent Owners; Waivers.

a. Except as otherwise provided herein, no well shall be drilled and no permit shall be issued for any well to be drilled within three hundred feet (300') of any residence, commercial building, or water facilities such as elevated ground storage tanks, lift stations, wells, treatment plants, booster station, etc., which is permanently affixed to the realty, without the applicant having first secured the written permission of the owner(s) of said building. For purposes of this ordinance, permission shall not be required from the owners of mobile homes unless the owner of said mobile home also owns the real property on which the mobile home is located. Signatures for waivers will be needed from landowners only; signatures are not required from tenants in said buildings.

b. In measuring said three hundred foot (300") distance, all measurements will be made from the proposed wellhead location to the closest load-bearing and supporting wall structure of each building. All measurements are to be made to those portions of said buildings which are intended to be habitable or occupied on a full-time basis; storage sheds, gazebos, covered patios and similar structures that are not enclosed are not to be considered in making such measurements. All measurements will be made to the actual wall surface and not to any overhanging roof eave or similar structure.

c. If any property owner denies access to their property for purposes of determining the distance measurement from the wellhead to the walls of the property owner's structure, then distances will be determined using methodologies such as transit and angle measurements or other similar methodology acceptable to the City Engineer which such distances shall be accepted for all purposes under this ordinance as incontestable.

d. Any waiver form used to obtain written permission of the property owner or owner's representative of any building as required herein shall contain, as a minimum, the following:

1. Name and address of the property owner;
2. Clear and unequivocal statement that the property owner agrees to the permitting of the well as reflected by the duly acknowledged signature of the property owner appearing on said form;
3. Statement of notice to the property owner that a permit to drill the well will not be granted until the applicant complies with all the terms of Chapter 10 of this Code.

e. Any waiver form used to obtain written permission of the owner or owner representative of any building must state the term of the waiver in the document itself, not to exceed the term of the permit.

f. The permit applicant shall make a good faith bona fide attempt to acquire the approval of all of the owners of the residential and commercial buildings located within three hundred feet (300') of any proposed well on the requisite form as specified herein. In so doing, the applicant shall provide true and accurate information to the property owner. If the applicant is successful in obtaining 100% of the necessary waivers, the applicant will be qualified to seek a Level A or B permit as otherwise specified herein. If, however, all of the owners of the residences and commercial buildings located within three hundred feet (300') of any proposed well have not given their written permission, then the applicant will be required to obtain a Level C permit as specified herein.

Section 10-374. Security Required.

a. Generally. If a permit is approved for issuance by the City under the terms of this Chapter for the drilling and operation of a well, no actual drilling operation shall be commenced until the Permittee shall file with the City Engineer and maintain in current status sufficient security in the form of a bond or certificate of deposit approved for form by the City Attorney, or cash in lieu of the full amount of the bond, in such principal sum as determined by the City Manager, but to be not less than the aggregate sum of *fifty thousand dollars (\$50,000.00)*. Any such bond posted as required herein shall consist of a *\$5,000.00* cash bond and the remaining *\$45,000.00* in the form of a surety bond executed by a reliable insurance company authorized to do business in the State of Texas as surety, and with the Permittee as principal, running to the City, for the benefit of the City and all persons concerned. In lieu of the surety portion of the bond, any certificate of deposit filed as permitted herein shall be free of any prior claim or obligation and shall not be pledged as security for any other purposes save and except as specified herein. In no instance, however, shall there be less than a *five thousand dollar (\$5,000.00)* cash bond posted as part of the total security. Any such bond or other security pledged as required herein shall be effective on or before the date it is filed with the City Engineer and remain in force and effect for a period of at least six (6) months subsequent to the expiration of the term of the permit issued herein.

b. Supplemental security. If the proceeds of the *\$5,000.00* cash bond or other security required herein are applied to remedy noncompliance as provided in Section 10-432, the Permittee shall be required to provide

immediately additional security of a like kind to maintain at all times the level of security as required under this Chapter. Failure to maintain security at all times as required under this Chapter shall constitute cause for revocation of permit as provided in Section 10-433.

c. Additional security. If at any time the City Manager reasonably considers any Permittee's bond or other security to be insufficient, the Manager may require the Permittee to file a new bond or additional security.

d. Conditions of security. Any security filed as required under this section shall be conditioned, on penalty of forfeiture or partial forfeiture to the City without written notice, on the following:

1. That Permittee shall comply with all of the terms of this Chapter;
2. That Permittee shall promptly pay all fines, penalties or other assessments imposed upon Permittee by reason of Permittee's breach of any of the terms of this Chapter;
3. That Permittee shall remedy any and all damage to streets, curbs, gutters, water lines, fire hydrants and other City property, occasioned in any manner by Permittee or its drilling, operation, and abandonment of said well;
4. That Permittee shall promptly fulfill all obligations under this Chapter, and shall conduct the drilling operations in full conformance with the requirements herein, including, but not limited to, abatement of dust and dirt, removal of mud from public streets and thoroughfares, watering of non-paved access roads, timely construction and erection of all fence structures as required herein, and other similar terms;
5. That Permittee shall promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the drilling or producing operations, and shall, after abandonment, grade, level, and restore said property in conformance with the City's drainage control ordinance;
6. That Permittee shall in all things fulfill the requirements of the site plan, and if required, any reclamation or restoration of the site stated as a condition of the issuance of the permit;
7. That Permittee shall indemnify and hold the City harmless from any and all liability growing out of or attributable to the granting of this permit or any of Permittee's actions with respect to the drilling, operation, and abandonment of said well.

e. Reduction in principal amount. If after completion of a well, the Permittee has complied with all the provisions of this Chapter, such as removing the derrick, clearing the premises, etc., the Permittee may apply to the City to have the bond or other security reduced to a sum of not less than *ten thousand dollars (\$10,000.00)* for the remainder of the time the well produces; provided, however, that the Permittee has met all the requirements of any permit hereunder, has otherwise acted in full compliance with this Chapter, and provided that the Permittee shall submit a bond or certificate of deposit in the correct principal amount and approved for form by the City Attorney, or cash in lieu thereof, and otherwise in conformance with this section as a substitute for any other security previously pledged under the provisions of Subsection 10-374, save and except that no such substitute shall be taken for the *five thousand dollar (\$5,000.00)* cash bond until such time as otherwise specified in this ordinance. Permittee may provide a blanket bond or certificate of deposit in the approved form specified herein, or cash in lieu thereof, in the principal amount of not less than *ten thousand dollars (\$10,000.00)* per well secured by said security, to a maximum principal amount of said security of *fifty thousand dollars (\$50,000.00)*, said blanket security to secure all wells operated by the Permittee within the City limits, provided said blanket security is in a form acceptable to the City Attorney and otherwise conforms with this section.

f. For each completed well covered by security under this section that ceases to produce and is subsequently plugged and abandoned in accordance with the requirements of the Railroad Commission, the security

for said well shall be returned to the principal or in the case of blanket security, said well shall no longer require such security. To qualify for release of security as set out herein, the Permittee must provide copies of official Railroad Commission forms verifying the plugging and abandonment of the well and must remove all surface equipment used in the operation of the well including, but not limited to, pumps, compressors, storage tanks, and separator tanks.

g. Violation of Conditions. It shall be unlawful for the principal of any bond filed in accordance with this section to violate any condition of such bond.

Section 10-375. Insurance Required Prior to Drilling.

a. Generally. In addition to the bond required by Section 10-374, each Permittee, prior to the issuance of the permit and commencement of actual drilling operations, shall file with the City Engineer a certificate(s) of insurance showing that the Permittee has in full force and effect a policy or policies of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the Permittee and the City as co-insured, and issued by an insurance company authorized to do business within the State of Texas. Such policy or policies, in the aggregate shall provide for the following minimum coverage:

1. For bodily injury or death, *five hundred thousand dollars (\$500,000.00)* as to any one person and *one million dollars (\$1,000,000.00)* as to any one accident.

2. For public liability for damage to property of others, *five hundred thousand dollars (\$500,000.00)*.

b. In addition, prior to the issuance of the permit, Permittee shall file with the City Engineer a certificate(s) of insurance showing that the Permittee has in full force and effect a policy or policies of blowout or cost of well control insurance in an amount not less than *one million dollars (\$1,000,000.00)* for each well.

Section 10-376. Notification of Issuance.

Following the issuance of a permit as otherwise provided herein, the applicant shall place a notification of such issuance in the legal notice section of the local newspaper with the largest daily circulation in the City. Such notification shall be published no earlier than three (3) days following the issuance of the permit and no later than five (5) days following the issuance of the permit. Said notification shall state with particularity the name of the Permittee; the designated name of the well; the well location, identified by streets and other readily identifiable landmarks sufficient to inform the reader as to the exact location of the well; the anticipated date for drilling activity to begin; and any other specific information required to be published by the City.

Section 10-377. Permit Term; If production will continue.

Each permit shall have an initial term of one (1) year from the date of issuance; provided, two (2) time extensions of ninety (90) days each may be granted at the end of the original term, and provided the Permittee can make a showing of good cause for the delay as a precondition for approval of any extension. The City Manager or duly authorized designee shall determine the appropriateness of any permit extension. It shall be the responsibility of the Permittee to file any requests for extension at least five (5) days in advance of the expiration date of the then-outstanding term. At the end of the initial term, or any extended term not to exceed a total of eighteen (18) months, the permit shall expire unless the Permittee is engaged in drilling or completion operations. Any decision not to grant a permit extension as provided herein may be appealed by the Permittee to City Council, which such decision shall be final. If production occurs during the permit term, then the permit shall continue with an indefinite term until production ceases and the well has been plugged and abandoned and in accordance with Division F.

Section 10-378. Completion of Well.

Upon completion of the well, including performance of all production tests required by the Texas Railroad Commission as a precondition to issuance of a production allowable, the Permittee shall verbally notify the City Engineer as soon as possible thereafter, and shall formally certify completion of the well to the City by filing duplicates of Railroad Commission-required completion forms G-1 (gas well) or W-2 (oil well), or their successor forms, with the City within ten (10) days following the filing of same with the Railroad Commission.

Section 10-379. Refusal or Withdrawal of Permit; Processing Fee.

If the permit for the well is refused, or if the applicant notifies the City in writing that the applicant does not elect to accept the permit as tendered and wishes to withdraw the application, or if the bond of the applicant is not approved, or if the applicant notifies the City in writing that the applicant wishes to withdraw the application for bond, or if following the issuance of the permit, the Permittee determines that drilling of the well is no longer feasible or possible, and the Permittee has undertaken no substantive activity in drilling the well to date, then the cash deposit filed by the applicant with the application shall be returned to the applicant, except there shall be retained therefrom by the City *one hundred dollars (\$100.00)* as a processing fee.

Section 10-380. Transfer of Permit.

Upon application for transfer of permit duly presented to the City Engineer, and upon stipulation in writing by the applicant for transfer to assume all obligations of the current Permittee, including satisfactory security, bonds, and insurance, and upon a showing that the applicant for transfer would have otherwise been qualified for issuance of the original permit, a permit may be transferred into the name of a new Permittee. A permit transfer fee of *two hundred dollars (\$200.00)* must accompany all applications for transfer. Transfer of a permit shall not extend the term of the original permit or affect any other substantive requirements therein.

Section 10-381. Termination.

When a permit has been issued under this Chapter, the same shall terminate and become inoperative without any action on the part of the City, unless, within the original term or extended term as set out in Section 10-377, actual drilling of the well commenced. Cessation of drilling operations for more than six (6) months shall operate to terminate and cancel the permit, and the well shall be considered as abandoned for all purposes of this Chapter.

Section 10-382. Supplemental Permit for Deepening Well.

Once any well has either been completed as a producer or abandoned as a dry hole, it shall be unlawful for any person to drill such well to a deeper depth than that reached in the prior drilling operations without obtaining a supplemental permit for deepening the well. To receive a supplemental permit, the operator shall file a supplemental application with the City Engineer specifying:

1. The then-condition of the well and the casing therein;
2. The depth to which it proposed such well be deepened;
3. The proposed casing program to be used in connection with the proposed deepening operation; and,
4. Evidence of adequate current tests showing that the casing strings in the well meet or exceed all regulatory requirements of the Railroad Commission.

If the City Engineer and either the City Manager or the City Council, is satisfied that the well may be deepened with the same degree of safety as existed in the original well, a supplemental permit may be issued without additional filing fee to the Permittee authorizing the deepening and operation of the well to such specified

depth. In any deeper drilling or any deeper completion of any deeper producing operations, the Permittee shall comply with all other provisions contained in this Chapter and the original permit applicable to the drilling, completion, and operation of a well.

Section 10-383 through 10-388. Reserved.

DIVISION C LEVEL A PERMITS

Section 10-389. Permit Defined.

a. Upon receipt of a permit application, the City Engineer shall determine if the application will qualify for a permit issued under this Division.

b. A permit issued under this Division shall be designated a Level A Permit. A well must satisfy all of the following criteria to be considered for a Level A Permit:

1. Proposed well location must be in a primarily rural, open area;
2. Proposed well location must have less than five (5) habitable structures within a five hundred foot (500') distance of the wellhead;
3. Proposed well location may not be within a five hundred foot (500') distance of any public school or full service hospital;
4. Proposed well location is not in a City park;
5. Proposed well must not penetrate a potential sour gas formation as defined by the Texas Railroad Commission;
6. Proposed well location must be out of the 100-year floodplain;
7. Proposed well will not be drilled to a formation at a true vertical depth in excess of twenty thousand feet (20,000').
8. If the proposed well location required the approval of adjacent surface property owners as provided in Section 10-373, the applicant has acquired 100% of the required approvals.

Section 10-390. Application Requirements.

An application for a Level A Permit satisfying all the criteria set out in Section 10-389 shall include the following information:

1. Information satisfying all the requirements of Section 10-372 of this Chapter;
2. A minimum site plan;
3. Any other information required by the City Engineer to assure compliance with the requirements of this Chapter.

Section 10-391. Permitting Procedure.

a. The applicant shall cooperate fully with the City Engineer in providing the information necessary to complete the permit application. Upon completion of the review of the permit application, the City Engineer shall make a recommendation to the City Manager as to whether a Level A Permit should issue. If the City Manager determines that the application complies in all respects with the provisions of this Chapter, the City Manager shall issue a permit for the drilling and operation of the well. In making this determination, the City Manager may request the recommendation of the Oil & Gas Advisory Board.

b. The City Manager shall act on an application for a Level A Permit within thirty (30) days after all information required for issuance of the permit has been filed with the City Engineer, provided that an additional thirty (30) days is permissible if the City Manager has requested recommendation of the Oil and Gas Advisory Board. The thirty (30) day review period shall not begin to run until the applicant has provided the City Engineer with a complete application package, including satisfaction of the requirements of Section 10-371 of this Chapter regarding timely posting of the required notice sign.

c. In reviewing the permit application, the City Engineer and the City Manager may consider the past performance of the applicant in compliance with City ordinances regulating oil and gas drilling activity. Should the applicant have a history of poor compliance, such that the City Manager believes that a subsequent permit would necessitate a more intense site plan, additional conditions, or other similar requirements, then the City Manager may, within ten (10) days of receipt of a completed application, determine that the pending application should require a Level B or Level C Permit. On receiving notification of this determination, the applicant may request a recommendation of the Oil & Gas Advisory Board. Processing of the application will be abated for thirty (30) days pending consideration by the Oil and Gas Advisory Board. The recommendation of the Board will be made to the City Manager and applicant, at which time the City Manager may decide to uphold the decision to require processing at Level B or C or whether to complete the processing at Level A. Thereafter, the permit shall be processed in accordance with the provisions of this Chapter regarding issuance of such permits; the time period for issuance of such permits shall begin on the date of the City Manager's recommendation or the date of perfection of a permit application for the recommended permit, whichever date shall occur later.

d. Based on the applicant's prior compliance, the City Manager may also require as a condition of issuance of the permit increased security or insurance coverage in excess of that specified in Section 10-374 and Section 10-375.

e. The City Manager may impose any special conditions in the permit reasonably appropriate to achieve the purposes of this ordinance and to protect the public health, safety, and welfare.

f. The City Manager, upon a finding that the application fails to comply with the requirements of this Chapter or should not be approved for the reasons stated in Sections 10-374 and 10-375, may deny the permit.

Section 10-392. Permit Conditions.

a. Each Level A Permit issued under this Division shall include the following:

1. By reference have incorporated therein all the provisions of this Chapter with the same force and effect as if this Chapter were copied verbatim in the permit.

2. Specify the well location with particularity to lot number, block number, name of addition or subdivision, or other available correct legal description, as indicated on the minimum site plan; provided, however, the exact wellhead location for a Level A Permit may vary by twenty feet (20') in either direction from the originally indicated survey point as long as such variance does not require the approval of adjacent property owners as set out in Section 10-373. If the site location does vary from that originally presented to the City Engineer, the Permittee shall upon completion of the well file with the City Engineer a revised site plan indicating the actual location of the wellhead.

3. Specify the term of the permit in conformance with Section 10-377.
4. Specify minimum driveway requirements in conformance with Section 10-360.
5. Specify the total depth to which the well may be drilled, not exceeding the projected depth.
6. Specify that no actual operations shall be commenced until the Permittee shall file and have approved security in the designated principal amount set out in the permit and conditioned as specified in Section 10-374.
7. Specify such conditions as are by this Chapter authorized or as are required by the City Manager.

b. The permit shall be in duplicate originals signed by the City Manager, and prior to delivery to the Permittee, shall be signed by the Permittee with one original to be retained by the City and one by the Permittee. When so signed such permit shall constitute the Permittee's drilling and operating license and a contractual obligation of the Permittee to comply with the terms of such permit, such bond, and this Chapter.

Section 10-393. Appeal by Permit Applicant.

The actions of the City Manager in imposing additional conditions in excess of the minimum conditions required under this Chapter for the issuance of the permit, or the City Manager's denial of the permit application, may be appealed by the permit applicant in public session to the City Council. If an appeal is perfected in accordance with this Section, the permit application, additional conditions received by the City Manager or denial of application shall be forwarded to the Oil and Gas Advisory Board. Within 30 days after receiving the application and conditions, the Oil and Gas Advisory Board shall forward its recommendations, along with the application and conditions to the City Council. In considering the appeal, the burden of proof shall be upon the applicant. Following the appeal, the City Council may sustain the action of the City Manager, reverse same, or impose additional requirements as conditions for issuance of the permit as provided in Section 10-402 of this Chapter. The City Council shall have an additional thirty (30) days from the date of filing an appeal to render its decision, which shall be final.

Section 10-394 through 10-398. Reserved.

DIVISION D. LEVEL B PERMITS

Section 10-399. Permit Defined.

- a. Upon receipt of a permit application, the City Engineer shall determine if the application will qualify for a permit issued under this Division.
- b. A permit issued under this Section is designated a Level B Permit. To qualify for consideration as a Level B Permit, a proposed well must not potentially penetrate a sour gas formation as defined by the Texas Railroad Commission, the proposed well location must not be in a City park, the proposed well must not be drilled to a formation in excess of twenty thousand feet (20,000') in depth, and one or more of the following criteria prevents consideration as a Level A permit:

1. The proposed well location has five or more habitable structures within a five hundred foot (500') distance of the proposed wellhead location and the applicant has been able to obtain approval of more than 75% of the adjacent surface property owners in accordance with the requirements of Section 10-373;

2. The proposed well location is within a five hundred foot (500') distance of any public school or full service hospital;

3. The proposed well location is in the 100 year floodplain;

4. The original application for the well location was qualified for a Level A Permit, but was recommended for processing as a Level B Permit by the City Manager.

Section 10-400. Application Requirements.

An application for a Level B Permit satisfying all of the criteria set out in Section 10-402 shall include the following;

1. Information satisfying all the requirements of Section 10-372;

2. A detailed site plan including all of the information required for a minimum site plan, but also including specific details as to the projected location of the major components of the drilling site, creeks and other topographic features, adjacent buildings and other structures, including measured distances therefrom, any special flood protection equipment or flow deflectors necessary to deflect flood-carried waters where wells are located in flood plains, and any other surface features reasonably considered necessary by the City Engineer;

3. Appropriate information dealing with projected dust, noise, temporary and permanent fencing, or other similar information dealing with the environmental and nuisance aspects of the application;

4. A specific, detailed location of the exact point where the well will be drilled;

5. Any other information reasonably required by the City Engineer to assure compliance with the requirements of this ordinance.

Section 10-401. Permitting Procedure.

a. The applicant shall cooperate fully with the City Engineer in providing all information necessary to complete the permit application. Upon completion of the review of the permit application, the City Engineer shall make a recommendation to the City Manager as to whether a Level B Permit should issue. If the City Manager determines that the applicant complies with the provisions of this Chapter, the City Manager shall issue a permit for the drilling and operation of the well. In making this determination, the City Manager may request the recommendation of the Oil & Gas Advisory Board.

b. The City Manager shall act on an application for a Level B Permit within thirty (30) days after all information required for issuance of the permit has been filed with the City Engineer provided that an additional thirty (30) days is permissible if the City Manager has requested recommendation of the Oil and Gas Advisory Board. The thirty (30) day review period shall not begin to run until the applicant has provided the City Engineer with a complete application package, including satisfaction of the requirements of Section 10-371 regarding timely posting of the required notice sign.

c. In reviewing the permit application, the City Engineer and the City Manager may consider the past performance of the applicant in compliance with city ordinances regulating oil and gas drilling activity. Should the applicant have a history of poor compliance, such that the City Manager believes that a subsequent permit requires a more intensive site plan, additional conditions, or other similar requirements, then the City Manager may, within ten (10) days of receipt of a completed application, determine that the pending application should require a Level C Permit. On receiving notification of this determination, the applicant may request a recommendation of the Oil & Gas Advisory Board. Processing of the application will be abated for thirty (30) days pending consideration by the

Oil and Gas Advisory Board. Thereafter, the permit shall be processed in accordance with the provisions of this Chapter regarding issuance of such permit; the time period for issuance of such a permit shall begin on the date of the City Manager's recommendation or the date of perfection of a permit application for the recommended permit, whichever date shall occur later.

d. Based on the applicant's prior history, the City Manager may also require as a condition of issuance of the permit increased security or insurance coverage in excess of that specified in Section 10-374 and Section 10-375.

e. The City Manager may impose any special conditions in the permit reasonably considered appropriate to achieve the purposes of this ordinance and to protect the public health, safety, and welfare.

f. The City Manager, upon a finding that the application fails to comply with the requirements of this Chapter, including especially Sections 10-374 and 10-375 regarding security and insurance, may deny the permit.

Section 10-402. Permit Conditions.

a. Each Level B Permit issued under this Division shall include the following:

1. By reference have incorporated therein all the provisions of this Chapter with the same force and effect as if this Chapter were copied verbatim in the permit.

2. Specify the well location with particularity to lot number, block number, name of addition or subdivision, or other available correct legal description; provided, however, that the site location and wellhead for the actual drilling of the well shall be specifically set out as shown in the detailed site plan, and there shall be no variation therefrom.

3. Require all drilling activities to be conducted in conformance with the detailed site plan.

4. Require that upon completion of the well, a detailed reclamation plan approved by the City Engineer as part of the permit application be in all things implemented.

5. Specify the term of the permit in conformance with Section 10-377.

6. Specify minimum driveway requirements in conformance with the requirements of Section 10-360.

7. Specify the total depth to which the well may be drilled, not exceeding the projected depth.

8. Specify that no actual operations shall be commenced until the Permittee shall file and have approved an indemnity bond in the designated principal amount set out in the permit and conditioned as specified in Section 10-374.

9. Specify such conditions as are by this Chapter authorized or as are required by the City Manager.

b. The permit shall be in duplicate originals signed by the City Manager, and prior to delivery to the Permittee, shall be signed by the Permittee with one original to be retained by the City and one by the Permittee. When so signed such permit shall constitute the Permittee's drilling and operating license and a contractual obligation of the Permittee to comply with the terms of such permit, such bond, and this Chapter.

Section 10-403. Appeal by Permit Applicant.

The actions of the City Manager in imposing additional conditions in excess of the minimum conditions required under this Chapter for the issuance of the permit, or the City Manager's denial of the permit application, may be appealed by the permit applicant in public session to the City Council. If an appeal is perfected in accordance with this Section, the permit application, additional conditions received by the City Manager or denial of application shall be forwarded to the Oil and Gas Advisory Board. Within 30 days after receiving the application and conditions, the Oil and Gas Advisory Board shall forward its recommendations, along with the application and conditions to the City Council. In considering the appeal, the burden of proof shall be upon the applicant. Following the appeal, the City Council may sustain the action of the City Manager, reverse same, or impose additional requirements as conditions of issuance of the permit as provided in Section 10-402. The City Council shall have an additional thirty (30) days from the date of filing an appeal to render its decision, which shall be final.

Section 10-404 through 10-409. Reserved.

DIVISION E: LEVEL C PERMITS

Section 10-410. Permit Defined.

a. Upon receipt of a permit application, the City Engineer shall determine if the application will qualify for a permit issued under this Division.

b. A permit issued under this Division shall be designated a Level C Permit. A well satisfying one or more of the following criteria will be considered for a Level C Permit:

1. The proposed well will penetrate a potential sour gas formation as defined by the Texas Railroad Commission;
2. The proposed well location will be wholly or partially located within a City park;
3. The proposed well location is located near residences or other habitable buildings and the applicant has been unable to obtain permission from at least 75% of the adjacent surface property owners in accordance with the requirements of Section 10-373;
4. The proposed well will be drilled to a formation at a true vertical depth in excess of twenty thousand feet (20,000').
5. The permit application is one which would be otherwise qualified for a Level A or Level B Permit, but has been referred by the City Manager for consideration as a Level C Permit.

Section 10-411. Application Requirements.

An application for a Level C Permit satisfying one or more of the criteria set out in Section 10-400 shall include the following:

1. Information satisfying all the requirements of Section 10-372;
2. A detailed Site Plan including all of the information required for a minimum Site Plan, but also including specific details as to the projected location of the major components of the drilling site, creeks and other topographic features, adjacent buildings and other structures, including measured distances therefrom, any special flood protection equipment or flow deflectors necessary to deflect flood-carried waters where wells are located in flood plains, and any other surface features deemed necessary by the City Engineer;

3. Appropriate information dealing with projected dust, noise, temporary and permanent fencing, or other similar information dealing with the environmental and nuisance aspects of the application;
4. A specific, detailed location of the exact point where the well will be drilled;
5. If the applicant must obtain a Level C Permit because the applicant has failed to obtain at least 75% approval of adjacent property owners as required by Section 10-373, then the application must include a detailed description of the applicant's efforts to obtain such permission, and a detailed statement of objections raised by adjacent property owners to the drilling of the well;
6. If the applicant must obtain a Level C Permit because the objective of the well is the penetration of a potential sour gas formation as defined by the Texas Railroad Commission, the application must include specific details relating to the drilling formation the applicant seeks to penetrate, detailed safety methods to be used in the drilling and operation of the well to prevent release or escape of noxious fumes or dangerous gases, information to delineate anticipated impacted areas and the level of impact should an accident occur which would allow the escape of sour gas, and an emergency response and evacuation plan;
7. If the applicant must obtain a Level C Permit because the objective of the well is the penetration of a potential sour gas formation as defined by the Texas Railroad Commission, the applicant must include on the sign required under Section 10-371 information advising that a permit for a sour gas well is pending.
8. If the applicant must obtain a Level C Permit because the drilling site will be located wholly or partially in a City park, the applicant must include a detailed site restoration plan delineating re-vegetation of the park property, screening, appropriate environmental controls, and other requirements as deemed appropriate by the City Engineer;
9. Any other information reasonably required by the City Engineer to assure compliance with this ordinance.

Section 10-412. Permitting Procedure.

- a. The applicant shall cooperate fully with the City Engineer in providing all information necessary to complete the permit application. Upon completion of the review of the permit application, the City Engineer shall make a formal written recommendation to the City Council, and if the application is for a drilling location in a City park, to the City Parks & Recreation Board as to whether or not a Level C Permit should issue. The City Engineer shall make said recommendation within thirty (30) days after all information required for issuance of the permit has been filed with City Engineer. The thirty (30) day review period shall not begin to run until the applicant has provided the City Engineer with a complete application package, including satisfaction of the requirements of Section 10-371 regarding timely posting of the required notice sign. The application shall also be referred to the Oil and Gas Advisory Board at the same time that the recommendations are delivered to the City Council.
- b. If the application proposes a drilling site location located wholly or partially within a City park, and following the review and recommendation process by the City Engineer, the permit application shall then be considered by the Parks & Recreation Board. The Parks & Recreation Board will conduct at a public meeting a review of the potential impact of the application on the City park property, soliciting information from the permit applicant and from those interested citizens or other parties which the Parks & Recreation Board deems appropriate. The Parks & Recreation Board shall review the application within a thirty (30) day period following receipt of the City Engineer's recommendation, and shall then make a recommendation to City Council for its consideration.
- c. Upon receipt of the recommendations from the City Engineer, or in the case of an application for a well site located wholly or partially in a City park, upon receipt of the recommendation from the Parks & Recreation

Board, the City Council shall hold a public hearing to consider such application. Provided all other notice requirements as set out herein are satisfied, said public hearing may be conducted as part of a regularly scheduled City Council meeting.

d. Any well application which has progressed to the point of consideration by City Council must be accompanied by an additional non-refundable fee of *seven hundred fifty dollars (\$750.00)* payable to the City.

e. At least twenty (20) days and no more than thirty (30) days precedent to any such public hearing before City Council, the applicant at applicant's expense shall publish notice of the hearing in a local newspaper acceptable to the City. The substance of the notice and the procedure for publishing same shall be approved by the City prior to publication. The applicant shall obtain a certificate of publication from the newspaper following publication of the notice.

f. At least twenty (20) days prior to the hearing, the applicant shall by certified mail, return receipt requested, give notice of the hearing to the following persons:

1. If the applicant must obtain a Level C Permit because the applicant has failed to obtain at least 75% of the approvals of adjacent surface property owners as required under Section 10-373, then the applicant shall give notice of the hearing to all owners or representatives of owners of the residences and commercial buildings located within three hundred feet (300') of the proposed well;
2. All other applicants for Level C Permits shall give notice of the hearing to all property owners located within five hundred feet (500') of the proposed well.

Mail notices as required herein shall be served by depositing same with the United States Post Office, properly addressed and postage prepaid, certified mail, return receipt requested, to the address of each owner shown on the last approved City tax roll, or such other alternative address as shall be made known to the applicant. The applicant shall likewise post a sign on the drill site premise giving twenty (20) days advance notice of the hearing. The notice sign shall be posted in a manner similar to and shall bearing lettering comparable to that sign required by Section 10-371 of this Chapter.

g. During the initial portion of the public hearing, and before the City Council may consider the merits of the applicant's permit application, the applicant shall provide evidence to the satisfaction of the City Council of the following:

1. In the case of an applicant who is required to obtain a Level C Permit because the applicant has failed to obtain at least 75% approval of adjacent property owners as required under Section 10-373, that the applicant has made a good faith, bona fide attempt and offered to obtain written permission from each and all of the owners of any residential or commercial buildings located within three hundred feet (300') of the well;
2. Certificate of publication establishing timely publication of the notice of hearing as required herein;
3. That timely notice of the hearing was given to all persons as required in Section 10-412(f);
4. That the applicant has otherwise complied with all other requirements of Code Chapter 10, including compliance with the financial and technical requirements stated therein;
5. That the applicant has an acceptable record of voluntary compliance with the terms of the City's oil and gas drilling ordinances for past drilling operations.
6. Recommendations of the Oil & Gas Advisory Board.

h. The burden of proof of all matters considered in the hearing shall be upon the applicant.

i. Following such public hearing, the City Council may refuse any application for a Level C Permit to drill and operate such a well within the City limits considering the character and value of the permanent improvements already erected on or adjacent to the particular location in question, and the use to which the land and surroundings are adapted, because of the applicant's prior poor compliance with the City's ordinances, or because of the fact that the well location would impose an unreasonable burden or for health or safety reasons, or for a composite of any of these reasons, or others, the drilling or operation of such well in the particular location might be injurious or a disadvantage to the City or to its inhabitants, especially adjacent property owners; or the City Council may grant a permit upon such terms as the City Council determines to be necessary to protect the public health, safety, and welfare.

Section 10-413. Permit Conditions.

If the permit is approved by the City Council, the Permittee shall comply with any special conditions that the City Council shall reasonably require as a condition of approval, including those conditions required for the issuance of a Level B Permit and any other special conditions, including, but not limited to:

1. Well safety;
2. Noise;
3. Access;
4. Site configuration;
5. Site screening;
6. Well construction procedures and time of completion;
7. Well maintenance;
8. Site maintenance;
9. Site safety and appearance;
10. Additional security in the form of bonds or other security as provided in Section 10-374;
11. Additional insurance as provided in Section 17-375;
12. Use and disposal of drilling fluids;
13. Site reclamation;
14. Well/site abandonment.

Section 10-414 through 10-419. Reserved.

DIVISION F. REQUIREMENTS FOR OPERATING WELLS

Section 10-420. Well Operation.

For purposes of this Division, a well shall be considered operating unless the well has been plugged and abandoned and a copy of the appropriate Railroad Commission form certifying plugging and abandonment is filed with the City.

Section 10-421. Annual Requirements.

a. The operator of an operating well inside the City shall file annually with the City Engineer—the following information:

1. Name, address, phone number, and emergency phone number of the owner, operator, or other person responsible for the well;
2. Railroad Commission designation and serial number for said well;
3. Exact location of said well, identified by reference to adjacent streets and block number and by use of an attached map;
4. Nature, type (oil or gas or both), and age of the well, and any unique features of same;
5. General description of the well-associated equipment, including pumper, evaporator, condensate tank, condensers, storage tanks, compressors, and the like;
6. Any other information desired or deemed reasonably required by the City Engineer.
7. *Twenty dollar (\$20.00) annual fee.* (If requested by the Operator, the City may annually bill for the fee.

Section 10-422. Reserved.

Section 10-423. Inspections Authorized.

The City Engineer is hereby authorized to perform inspections of all well sites within the City limits, to identify any safety hazards, nuisances, or other problems related to such wells.

Section 10-424. Minimum Safety Requirements.

To protect the public health, safety, and welfare, the following safety standards shall apply to all operating oil and gas wells within the City:

1. Each well located within one hundred fifty feet (150') of a habitable structure, including, but not limited to, residences, schools, churches, commercial and retail establishments, and industrial sites, or within one hundred fifty feet (150') of any dedicated thoroughfare, shall have the wellhead, pumping mechanism, condensate tank, storage tank, and compressor fully enclosed with a fence and associated locked gate conforming to the fencing requirements in Section 10-359.
2. Each well classified as a Level B or Level C well shall be fitted with an operational high/low safety shut-in device maintained in working condition.
3. Each well shall be fitted with a shutoff valve or switch as provided in Section 10-365.
4. Each well shall have posted at a prominent point on the well site, a sign bearing the name and address of the owner or operator of the well and the emergency telephone number whereby the owner or

operator of the well can be contacted twenty-four (24) hours per day regarding any emergency condition existing on the well site as provided in Section 110-364 of this Chapter.

Section 10-425. Notice to City Engineer.

The operator will notify the City Engineer 24 hours in advance of any re-completions or major stimulations of existing wells.

Section 10-426 through 10-431. Reserved.

DIVISION G. COMPLIANCE

Section 10-432. Use of Security.

The City Manager is hereby authorized, following such reasonable notice to Permittee under this Chapter as the City Manager shall determine is justified based on the individual circumstances and consideration of public health, safety, and welfare, to apply the proceeds of any security posted by a Permittee to the cost of curing any condition or circumstance of noncompliance with respect to a permit issued under this Chapter.

Section 10-433. Revocation or Suspension.

The City Council at any public meeting thereof, may, after ten (10) days notice has been given to the Permittee that revocation or suspension is to be considered at such meeting, revoke or suspend any permit issued under this Chapter and under which drilling or producing operations are being conducted, if the Permittee thereof has violated any provisions of the permit, bond, or this Chapter. If the permit is revoked or suspended, the Permittee may make application to the City Council for a reissuance of such permit, provided said applicant has cured any and all violations which led to the suspension or revocation. Revocation of any permit under this section shall be in addition to the penalties prescribed for the violation involved.

Section 10-434. Creation of the Oil & Gas Advisory Board.

a. There is hereby created the Oil & Gas Advisory Board composed of five (5) members. Two (2) members shall be realtors or real estate developers; two (2) members shall be Oil or Gas operators or be employed in the Oil & Gas industry; one member shall be selected from the City at large.

b. The City Attorney or designee shall serve as Secretary, provide the Board with all information necessary for performance of its duties, and keep a record of all transactions.

c. Advisory Board functions are as follows:

1. Make recommendations to the City Council concerning requests for oil and gas leases.
2. Make recommendations to the City Council or City Manager concerning any oil and gas permit application or proposed terms of regulations to be applied in a proposal permit for drilling or operating an oil and gas well or construction oil or gas production facilities.
3. Inform the City Manager of any failure by the City Engineer to carry out any orders or policies adopted by the City Council.