

CHAPTER 11

ZONING

SECTION 1: PLANNING AND ZONING COMMISSION

A. MEMBERSHIP; TERMS OF OFFICE; VACANCIES; COMPENSATION

There is hereby created and established for the City of Elgin, Texas, a planning and zoning commission, which shall be composed of seven (7) members. The members shall be resident citizens, taxpayers, and qualified voters of the city, all of whom shall be appointed by the mayor subject to confirmation by the city council, to serve for terms of two (2) years. All vacancies shall be filled for the unexpired terms in the same manner as provided for the original appointments. All expired terms shall be filled for terms as provided for the original appointments and in the same manner. Members of the commission may be removed by the mayor, with the consent of the city council after public hearing and for cause assigned in writing. The members of the commission shall serve without compensation.

B. OFFICERS; BYLAWS

The planning and zoning commission shall elect a chairman and vice-chairman from its membership and shall have the power to employ such qualified persons as may be necessary for the proper conduct and undertakings of the commission and to pay for their services and such other necessary expenses, provided that the cost of such services and expenses shall not exceed the amount appropriated by the city council for the use of the commission. It shall also have the power to make rules, regulations and bylaws for its own government, which shall conform as nearly as possible with those governing the city council and same shall be subject to approval by such council. Such bylaws shall include, among other items, provisions for:

- (1) Regular and special meetings, open to the public;
- (2) Records of its proceedings, to be open for inspection by the public;
- (3) Reporting to the city council and the public, from time to time and annually; and
- (4) For the holding of public hearings on its recommendations.

C. POWERS AND DUTIES

The planning and zoning commission shall have the power and it shall be its duty to make and recommend for adoption of a master plan, as a whole or in parts, for the future development and redevelopment of the municipality and its environs and shall have the

power and it shall be its duty to prepare a comprehensive plan and ordinance for zoning the city in accordance with Sections 211.001-211.021, Local Government Code, V.T.C.A. The commission shall perform such other duties as may be prescribed by ordinance or state law.

SECTION 2: COMPREHENSIVE ZONING REGULATIONS

A. PREAMBLE

(1) Title

This section shall be known, and may be cited as the zoning ordinance of the City of Elgin, Texas.

(2) Purpose

It is hereby directed to be the purpose and intent of the city council in enacting this section that the zoning regulations and districts as herein established have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city consistent with a comprehensive plan.

(3) Zoning District Map

(a) Boundaries of Zoning Districts Delineated Upon

The boundaries of zoning districts set out herein are delineated upon a zoning district map of the city adopted as part of this section as fully as if the same were set forth herein detail.

(b) Original Map to be Filed with City Secretary

One (1) original of the zoning district map shall be filed in the office of the city secretary. This copy shall be the official zoning district map and shall bear the signature of the mayor and attestation of the city secretary. This copy shall not be changed in any manner. In case of any question, this copy, together with amending ordinances, shall be controlling.

(c) Additional Copy to be Placed with Building Inspector

An additional copy of the original zoning district map shall be placed in the office of the building inspector. The copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments.

(4) Zoning District Boundaries

(a) Centerlines

Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

(b) Platted Lot Lines

Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(c) City Limits

Boundaries indicated as approximately following city limits shall be construed as following city limits.

(d) Railroad Lines

Boundaries indicated as approximately following railroad lines shall be construed to be the established centerline of the right-of-way or, if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines.

(5) Compliance Required

All land, buildings, structures, or appurtenances thereon located within the city or 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. Land used in meeting the requirements of this section with respect to a particular use or building shall not be used to meet the requirements for any other use or building.

(6) Preserving Rights and Continuity in Enforcement, Pending Litigation, and Violations Under Zoning Regulations and Amendments Thereto

By the passage of this zoning section, no presently illegal use or building shall be deemed to have been legalized unless such use falls within a use district where the actual use and standards under the terms of this section would be conforming. Any use which does not conform to provisions of this section shall be a

nonconforming use or structure, as the case may be. It is further the intent and declared purpose of this section that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the previous zoning ordinance was repealed and this zoning section adopted shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded within all respects as if such prior ordinance had not been repealed.

(7) Newly Annexed Areas

(a) Temporarily Classified as R-1

All territory hereafter annexed to the City of Elgin, shall be temporarily classified in the R-1 District until permanent zoning classifications are given the area by the city council of the City of Elgin.

(b) Procedure for Establishing Permanent Zoning

The procedure for establishing the permanent zoning on any annexed territory shall be the same as is provided by law for the amendment of this comprehensive zoning section.

B. DEFINITIONS

For the purpose of these regulations, certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words used in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory.

(1) Accessory building shall mean a subordinate building or a portion of the main building located on the same lot as the main building, the use of which is incidental to that of the dominate use of the building or premises.

(2) Accessory use shall mean a use customarily incidental, appropriate and subordinate to the principal use of land or buildings and located upon the same lot therewith.

(3) Advertising sign or structure shall mean any cloth, card, paper, metal, glass, wooden, plastic, stone sign or other sign, device or structure of any character whatsoever, including a statuary, place for outdoor advertising purposed on the ground or on any tree, wall, bush, rock, post, fence, erecting, constructing, posting, painting, tacking, nailing, or making visible in any manner whatsoever. The area of an advertising structure shall be determined as the area of the largest cross-section of such structure. Neither directional, warning nor other signs posted by public officials in the course of their public duties nor merchandise or materials being offered for sale shall be construed as advertising signs for the

purpose of this section.

- (4) Alley shall mean a minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.
- (5) Apartment house. See (19) multiple family dwelling.
- (6) Automobile shall mean a self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, trucks, busses, motor scooters, and motor cycles.
- (7) Basement shall mean a story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when one-half ($\frac{1}{2}$) of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes by other than a janitor employed on the premises.
- (8) Bed & Breakfast shall mean single-family dwelling in which the principal use is permanent residential quarters; and in which, as an accessory use, no more than three (3) bedrooms are made available for transient occupancy, generally for not more than seven (7) days, by no more than five (5) guests for compensation.
- (9) Boarding house shall mean a dwelling other than a hotel where for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three (3) or more, but not exceeding twenty (20) persons on a weekly or monthly basis.
- (10) Building shall mean any structure intended for shelter, housing or enclosure for persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate building.
- (11) Building height shall mean the vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or the declivity of the mansard roof or to the average height of the highest gable of a pitch or hip roof.
- (12) Building, main shall mean a building in which is conducted the principal use of the lot on which it is situated. In a residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.
- (13) Child care center shall mean any place, home or institution which receives three (3) or more children under the age of sixteen (16) years, and not of common parentage, or care apart from their natural parents, legal guardians or custodians, when received for regular periods of time for compensation; provided, however, this definition shall not include public and private schools organized, operated or approved under the laws of this State, custody of children fixed by a court of

competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or the churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services or meetings or classes or other church activities.

- (14) Coverage shall mean the lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.
- (15) District shall mean any section or sections of the city for which the regulations governing the use of land and the use, density, bulk, height, and coverage of buildings and other structures are uniform for class or kind of buildings therein.
- (16) Dwelling shall mean any building or portion thereof, which is designed or used as living quarters for one (1) or more families, but not including trailer homes. (See trailer home)
- (17) Dwelling, single-family shall mean a detached dwelling designed to be occupied by one (1) family. (See 20 - family)
- (18) Dwelling, two-family shall mean a detached dwelling designed to be occupied by two (2) families living independently of each other.
- (19) Dwelling, multiple-family shall mean detached dwelling designed to be occupied by three (3) or more families living independently of each other, exclusive of hotels or motels.
- (20) Family shall mean one (1) or more persons related by blood, marriage, or adoption, or a group of not exceeding five (5) persons not all related by blood or marriage, occupying a boarding or lodging house, hotel, club, or similar dwelling for group use.
- (21) Garage apartment shall mean a dwelling unit for one (1) family erected above a private garage.
- (22) Garage, parking shall mean any building, or portion thereof, used for the storage of four (4) or more automobiles in which any servicing which may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided.
- (23) Garage, private, shall mean an accessory building or part of a main building used for storage purposes only for automobiles used solely by the occupants and their guests of the building to which it is accessory.
- (24) Garage, repair shall mean a building in which are provided facilities for the care, services, repair, or equipping of automobiles.
- (25) Garage apartment shall mean a multi-family dwelling unit, with not more than

three (3) stories. The building generally has private outdoor space, either on grade, or a private balcony.

- (26) Gasoline service or filling station shall mean any area of land, including structures thereon, that is used for the retail sale of gasoline or oil fuels, or other automobile accessories, and incidental services including facilities for lubricating, hand washing and cleaning, or otherwise servicing automobiles, but not including painting, major repair or automatic washing or the sale of butane or propane fuels.
- (27) Home occupation shall mean any occupation carried on solely by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory buildings; provided, that no trading in merchandise is carried on and in connection with which there is no display of merchandise or advertising sign other than one nonilluminated nameplate not more than two (2) square feet in area attached to the main or accessory building, and no mechanical equipment is used except such as is customary for purely domestic or household purposes. (A beauty or barber shop, tea room or restaurant, rest home, doctor's or dentist's office, child care center, or cabinet, metal or auto repair shop shall not be deemed a home occupation.)
- (28) Hotel shall mean a building or group of buildings (not apartments) contain six (6) or more sleeping rooms occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation, but not including trailer court or camp, sanatorium, hospital, asylum, orphanage or building where persons are housed under restraint.
- (29) Kennel shall mean any lot or premises on which are kept four (4) or more dogs, more than six (6) months of age.
- (30) Key lot shall mean a lot having frontage on two (2) intersecting streets, such lot being adjacent to that intersection, and having adjacent lots on both streets fronting on those streets.
- (31) Lot shall mean any plot of land occupied or intended to be occupied by one (1) main building, or a group of main buildings, and accessory buildings and uses, including such open spaces as are required by this section, and other laws or ordinances, and having its principal frontage on a street.
- (32) Lot, corner shall mean a lot which at least at two (2) adjacent sides abutting for their full lengths on a street, provided that the angle at the intersection of such two (2) sides is less than one hundred thirty-five (135) degrees.
- (33) Lot, depth shall mean the horizontal distance between the front and rear lot lines.
- (34) Lot, double frontage shall mean a lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
- (35) Lot, interior shall mean a lot other than corner lot.

- (36) Lot, area shall mean total area measured on a horizontal plane, included within lot lines.
- (37) Lot, frontage shall mean that dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.
- (38) Lot, lines shall mean the lines bounding a lot.
- (39) Medical Facilities
- (a) Convalescent, rest, or nursing home shall mean a health facility where persons are housed and furnished meals and continuing nursing care for compensation.
 - (b) Dental clinic or medical clinic shall mean a facility for the examination and treatment of ill and afflicted human out-patients provided they are not kept overnight except under emergency conditions.
 - (c) Dental office or doctor's office shall mean the same as dental or medical clinic.
 - (d) Hospital shall mean an institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.
 - (e) Public health center shall mean a facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therein.
 - (f) Sanatorium shall mean an institution providing health facilities for in-patient medical treatment and recuperation making use of natural therapeutic agents.
- (40) Parking space shall mean a permanently surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress of an automobile.
- (41) Planned development district shall mean planned associations of uses developed as integral land units such as industrial parks or industrial, offices, commercial or service centers, shopping center, residential development of multiple or mixed housing including attached single-family dwelling or any appropriate combination of uses which may be planned, developed, or integral land use units either by a single owner or a combination of owners.

- (42) Restaurant shall mean a building or premises, the primary use of which is the preparation and serving of food for on-premises consumption. The incidental sale of beer at such location for on-premises consumption shall be considered an accessory use of said building and premises.
- (43) Rooming house shall mean a building where lodging only is provided for compensation to three (3) or more, but not exceeding twenty (20) persons. A building which has accommodation for more than twenty (20) persons shall be defined as a hotel under the terms of this section.
- (44) Self-Service laundry or dry cleaning establishment shall mean attended or unattended place, building or portion thereof, available to the general public for the purpose of washing, drying, extracting moisture from or dry cleaning wearing apparel, cloth, fabrics, and textiles of any kind by means of a mechanical appliance which is operated primarily by the customer.
- (45) Stable, private shall mean a stable with a capacity for not more than two (2) horses or mules.
- (46) Stable, public shall mean a stable, other than a private stable, with a capacity for more than two (2) horses or mules.
- (47) Standard masonry construction shall mean building having at least seventy-five (75) percent of the exterior walls of the building constructed of brick, stone or other masonry construction.
- (48) Store selling beer shall mean a building or premises, the primary use which is the selling of beer for on-premises consumption. The incidental preparation and serving of food at location for on-premises consumption shall be considered an accessory use of said building or premises.
- (49) Story shall mean that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.
- (50) Story, half shall mean a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished of for use. A half story containing independent apartment or living quarters shall be counted as a full story.
- (51) Street shall mean any public or private thoroughfare which affords the principal means of access to abutting property. I
- (52) Street, intersecting shall mean any street which joins another at an angle, whether or not it crosses the other.

- (53) Structure shall mean anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground.
- (54) Structural alterations shall mean any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.
- (55) Tourist court shall mean an area containing one (1) or more buildings designed or intended to be used as temporary sleeping facilities of one (1) or more transient families and intended primarily for automobile transients.
- (56) Tourist home shall mean a dwelling occupied as a permanent residence by an owner or renter in which sleeping accommodations in not than four (4) rooms are provided or offered for transient guests for compensation.
- (57) Trailer court or mobile home park shall mean a parcel of land which has been designed or improved or intended to be used or rented for occupancy by one (1) or more trailer houses or mobile homes.
- (58) Trailer or mobile home space shall mean a plot of ground within a trailer court designed for the accommodation of one (1) mobile home.
- (59) Trailer home or mobile home shall mean a portable or mobile living unit used or designed for human occupancy on a permanent basis.
- (60) Trailer, travel or camping shall mean a portable or mobile living unit used for temporary human occupancy away from the place of residence of the occupants, and not constituting the principal place of residence of the occupants, and containing less than one hundred seventy-five (175) square feet of floor area.
- (61) Trailer, hauling shall mean a vehicle to be pulled behind an automobile or truck which is designed for hauling animals, produce, goods or commodities, including boats.
- (62) Yard shall mean an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this section that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of the side yard, the depth of a front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.
- (63) Yard, front shall mean a yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.

- (64) Yard, rear shall mean a yard extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from front yard.
- (65) Yard, side shall mean a yard between the building and the side of the lot and extending from the front lot to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the main building.
- (66) Business shall be as defined in the Standard Building Code, 1994 Edition, and additionally shall be defined as the use of any building or structure, or any portion thereof, including residences, wherein any merchandise, including goods, wares or merchandise incidental to such purposed, is sold or displayed for the purpose of being sold on more than 8 (eight) days during any twelve month period.

(Ordinance No. 96-03-19-09 of March 19, 1996)

C. ESTABLISHMENT OF ZONING DISTRICTS

(1) Number of Districts

For the purpose of this section the following districts are hereby established for the city:

(a) Residential Districts:

- R-1 Single-Family
- R-2 Single-Family and Duplex
- R-3 Single-Family, Duplex and Mobile Homes
- A-Multiple-Family

(b) Commercial Districts:

- C-1 Neighborhood Shopping Districts
- C-2 General Commercial Districts
- C-3 Highway Commercial Districts

(c) Industrial Districts:

- I-General Industrial Districts

(2) R-1 Single-Family Dwelling Districts

(a) General Description

This is the most restrictive residential district. The principal use is the

single family dwellings and related recreational, religious and educational facilities normally required to provide an orderly and attractive residential area. These residential areas are appropriate to the residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air, and open space for dwelling and related facilities and through consideration of the proper functional relationship of the different uses.

(b) Uses Permitted

Property and buildings in an R-1 single-family dwelling district, shall be used only for the following purposes:

Detached one-family dwelling
Churches, but not including revival tents or arbors
Public school offering general educational courses the same as ordinarily given in public schools and having no rooms regularly used for housing and sleeping
Public park and playground
Library
Growing of farm products
Municipal use
Telephone exchanges
Home occupation
Transportation and utility easement, alleys, and right-of-way

Accessory building which are not a part of a main building, including one (1) private garage, or accessory building which are a part of a main building, including one (1) private garage

Uses customarily incidental to any of the above uses when located upon the same lot and not involving the conduct of a business.

Fence - A fence, hedge, or enclosure wall provided: (1) no solid fence or enclosure shall exceed a height of six (6) feet, and no such six (6) foot fence or enclosure shall extend closer to any front street than forty (40) feet; (2) an ornamental fence may exceed six (6) feet in height but shall have a ratio of solid portion to open portion not in excess of one (1) to four (4) and shall not extend closer to any front street than forty (40) feet; (3) any fence or enclosure extending closer than forty (40) feet to the front line street shall not exceed a height of four (4) feet; and (4) any fence, hedge, or enclosure wall on a corner lot, and situated within fifteen (15) feet of the intersections of the two (2) street lines, shall not exceed a height of three (3) feet.

A temporary bulletin board or sign, not exceeding twelve (12) square feet in area appertaining to the lease, hire, or sales of a single building or premises, which board or sign shall be removed as soon as the premises are leased, hired, or sold.

A church bulletin board or sign not exceeding fifty (50) square feet in area, located on the same lot with the church building.

One (1) unlighted sign not to exceed one (1) square foot in area and attached flat-wise to the building, such sign to advertise only an accessory use allowed by this section and being conducted on the same property upon which such sign is located.

Temporary building of the construction industry which is incidental to the erection of buildings permitted in this district and which shall be removed when construction work is completed.

Accessory uses, which shall include the following where the primary use is residential: Customary home occupations, if done inside of building, such as dressmaking, baby sitting, seamstress, tailoring, millinery, tutoring, when engaged in by members of the resident family and employing not more than one (1) person, not a member of the resident family; but not including beauty culture, barbering or appliance repairing.

(c) Height Regulations

No building shall exceed two and one-half (2-1/2) stories or thirty-five (35) in height except as provided in subsection D(3).

(d) Area Regulations

Front Yard

The minimum depth of the front yard shall be twenty-five (25) feet.

If twenty-five (25) percent or more of the lots on one (1) side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet, then no building shall be erected closer to the street line than minimum setback so established by the existing building; but this regulation shall not require a front yard of greater depth than forty (40) feet.

When a yard has double frontage, the front yard requirements shall be complied with on both streets.

Side Yard

For dwelling located on interior lots there shall be a side yard on each side of the main building of not less than seven and one-half (7-1/2) feet for dwellings of one (1) story, and of not less than ten (10) feet for dwellings or more than one (1) story except as hereinafter provided in subsection D(2).

For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided, however, that unattached one (1) story buildings of accessory use shall not be required to setback more than three (3) feet from an interior side line when all parts of the accessory building are located more than ninety (90) feet behind the front lot lines.

For dwelling and accessory buildings located on corner lots there shall be a side yard from the intersecting street of not less than fifteen (15) feet in case such lot is back to back with another corner lot, and twenty-five (25) feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot.

Churches and main accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than twenty-five (25) feet.

Rear Yard

There shall be a rear yard for a main building of not less than ten (10) feet. Unattached buildings of accessory use be located in the rear yard of a main building.

Lot Width

For dwellings there shall be a minimum lot width of seventy-five (75) feet at the front building line, and such lot shall abut on a street for a distance of not less than thirty-five (35) feet.

Intensity of Use

For each dwelling, and building accessory thereto, there shall be lot area of not less than nine thousand (9,000) square feet.

For churches and main and accessory buildings, other than dwellings and accessory to buildings, the lot area shall be adequate to provide the yard areas required by this subsection and the off-street parking areas required; provided, however, that the lot area for a church shall not be less than twenty-one thousand (21,000) square feet.

Coverage

Main and accessory buildings shall not cover more than twenty-five (25) percent of lot area on interior lots, and thirty (30) percent of the lot area on corner lots. (Accessory buildings shall not cover more than twenty (20) percent of the rear yard.)

(3) R-2 Single-Family and Duplex Dwelling District

(a) General Description

This residential district is slightly less restrictive than the R-1 district. The principal use of land is for single-family and two-family dwellings and related recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area. These residential areas are intended to be defined and protected from the encroachment of uses which are not appropriate to residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and related facilities and through consideration of, the proper functional relationship of the different uses.

(b) Uses Permitted

Any use permitted in an R-1 residential district.
Two-family dwellings.
Garage apartments.

(c) Height Regulations

No building shall exceed two (2) standard stories or thirty-five (35) feet in height except as provided in subsection D(3).

(d) Area Regulations

Front Yard

The minimum depth of the front yard shall be twenty-five (25) feet.

If twenty-five (25) percent or more of the lots on one (1) side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25) feet, and no building varies more six (6) feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than forty (40) feet.

When a yard has double frontage the front yard requirements shall be complied with on both streets.

Side Yard

For dwellings located on interior lots there shall be a side yard on each of the main building of not less than five (5) feet for dwellings of one (1) story, and of not less than ten (10) feet for dwellings of more than one (1) story, except as hereafter as provided in subsection D(2).

For unattached buildings of accessory use there shall be a side yard of not less five (5) feet; provided, however, that unattached one (1) story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory building are located more than ninety (90) feet behind the lot lines.

For dwellings and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street of not less than fifteen (15) feet in case such lot is back with another corner lot, and twenty-five (25) feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot.

Churches, main and accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than twenty-five (25) feet.

Rear Yard

There shall be a rear yard for a main building of not less than ten (10) feet. Unattached buildings of accessory use may be located in the rear yard of a main building.

Lot Width

For dwellings there shall be a minimum lot width of sixty (60) feet at the front building line, and such lot shall abut on a street for a distance of not less than thirty-five (35) feet.

Intensity of Use

For each dwelling, and building accessory thereto, there shall be a lot area of not less than seven thousand, five hundred (7,500) square feet.

For churches and main and accessory buildings, other than dwelling and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this subsection and the off-street parking areas that the lot area for a church shall not be less than twenty-one thousand (21,000) square feet.

(Ordinance No. 97-12-02-31 of December 2, 1997)

Coverage

Main and accessory buildings shall not cover more than twenty-five (25) percent of the lot area on interior lots, and thirty (30) percent of the area on corner lots. Accessory buildings shall not cover more than twenty (20) percent of the rear yard.

(e) Zero Lot Line Duplexes

A duplex may be subdivided through the common wall for the sole purpose of creating a separate fee simple title for each dwelling unit provided that the parcel containing each dwelling unit shall not be less than three thousand (3,000) square feet and provided each parcel had access to a public street and meets all applicable ordinances.

The following items are established as minimum criteria for development within this District:

Front yards shall have a minimum of sixty (60) percent landscaped area. Front yards and side street yards shall be sodded and landscaped prior to an issuance of a certificate of occupancy.

Permanent six (6) foot privacy fences shall be erected along all property lines which abut a single family residential lot line prior to the acceptance of subdivision improvements by the City

(Ordinance No. 2002-02-05-06 of February 5, 2002)

(4) R-3 Single-Family Dwelling District

(a) General Description

This residential district is slightly less restrictive than the R-2 district. The principal use of land is for single-family and two-family dwellings and related recreational, religious, and educational facilities area.

These provide an orderly and attractive residential area. These residential areas are intended to be defined and protected from the encroachment of uses which are not appropriate to residential environment. Internal stability, attractiveness, light, air, and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different uses.

(b) Uses Permitted

Any use permitted in an R-2 residential district. Individual mobile homes, located on owner occupied lots.

(c) Height Regulations

No building shall exceed two (2) standard stories or thirty-five (35) feet in height.

(d) Area Regulations

Front Yard

The minimum depth of the front yard shall be fifteen (15) feet.

If twenty-five (25) percent or more of the lots on one (1) side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line of greater than fifteen (15) feet, and no building varies more than six (6) feet from this average setback line, then no building shall be erected closer to the street line, than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than twenty-five (25) feet.

When a yard has double frontage the front yard requirements shall be complied with on both streets.

Side Yard

For dwellings located on interior lots there shall be a side yard on each side of the main building of not less than five (5) feet for dwellings of one (1) story, and not less than seven and one-half (7 ½) feet for dwellings of more than one (1) story, except as hereinafter provided in subsection D(2).

For unattached buildings of accessory use there shall be a side yard of not less than five (5) feet; provided, however, that unattached one (1) story buildings of accessory use shall not be required to set back more than three (3) feet from an interior side lot line when all parts of the accessory building are located more than fifty (50) feet behind the front line.

For dwelling and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street of not less ten (10) feet in case such lot is back to back with another lot, and fifteen (15) feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot.

Churches and main and accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lines a distance of not less than fifteen (15) feet.

Rear Yard

There shall be a rear yard for a main building of not less than ten (10) feet. Unattached buildings of accessory use may be located in the rear yard of a main building.

Lot Width

For dwellings there shall be a minimum lot width of fifty (50) feet at the building line, and such lot shall abut on a street for a distance of not less than twenty-five (25) feet.

Intensity of Use

For each dwelling, and building accessory thereto, there shall be lot area of not less than six thousand (6,000) square feet.

For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required in this subsection; provided, however, that the lot area for a church shall not be less than ten thousand (10,000) square feet.

(Ordinance No. 97-12-02-31 of December 2, 1997 as amended by Ordinance No. 2001-09-11-21 of September 11, 2001)

(5) A - Multiple-Family Residential District

(a) General Description

This is a residential district to provide for medium and high population density. The principal use of land may range from single-family to multiple-family and garden apartment uses. Certain uses which are more compatible functionally with intense residential uses than with commercial uses are permitted. The recreational, religious, and educational facilities normally required to provide an orderly and attractive residential area are permitted. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air, and open space for dwellings and relationship of each use permitted in the district.

(b) Uses Permitted

Any use permitted in the R-3 residential district, except individual or mobile homes, located on owner occupied lots.

Multiple-family dwellings and garden apartments.

Accessory buildings and uses customarily incidental to the above uses when located on the same lot.

(c) Area Regulations

All buildings shall be set back from street right-of-way lines or lot lines to comply with following yard requirements:

Front Yard

There shall be a front yard having a minimum depth of not less than twenty-five (25) feet.

Where lots have double frontage running through from one (1) street to another, the required front yard shall be provided on both streets.

Side Yard

For multiple-family dwellings the side yard shall be ten (10) feet where no windows or other openings for light face the side yard. In all other cases the minimum depth shall be not less than twelve (12) feet plus one (1) foot for each fifteen (15) feet in length (L).

$$D = 12 + L/15$$

In all cases, where the side yards is adjacent to a side street, the side yard shall not be less than ten (10) feet. Where the corner lot is a key lot, the required front yard shall be provided in both streets.

Rear Yard

For multiple-family dwellings, same as side yard except where property backs up to residentially zoned property the rear yard must have a depth of fifty (50) feet including parking areas. In addition, a brick stone or acceptable masonry wall not less than six (6) feet high must be provided along rear property line.

Distances

The distance between buildings within an apartment development shall in no case be less than sum of the required minimum depth of the yard requirements above.

One windowless wall - where window wall faces a windowless wall, the required distance between the two (2) buildings shall be computed as if both walls contained windows.

Lot Coverage

A lot on which there is erected or converted a multiple-family dwelling shall contain a total lot area according to the following schedule:

Each efficiency unit	1,000 sq. ft.
Each one-bedroom unit	1,400 sq. ft.
Each two-bedroom unit	2,300 sq. ft.
More than two-bedroom unit	2,300 sq. ft. plus 200 sq. ft. for each bedroom over two

Any room other than a living room, bathroom, dining room and kitchen shall be counted as a bedroom.

Livability open space - no less than thirty (30) percent of the total gross land area used for people, planting, and visual appeal.

(d) Height Regulations

No buildings shall exceed three and one-half (3 ½) stories or forty (40) feet in height.

(6) C-1 Neighborhood Shopping District

(a) General Description

This commercial district is for the conduct of retail trade and personal

service enterprises to meet the regular needs and for the convenience of the people of adjacent residential areas. Because these shops and stores may be an integral part of the neighborhood closely associated with residential, religious, recreational and educational uses, more restrictive requirements for light, air, open space and off-street parking are made than are provided in other commercial districts.

(b) Uses Permitted

Property and building in a C-1 Neighborhood Shopping District shall be used only for the following purposes:

Any use permitted in an A-Multiple-Family District.

Retail stores and shops which do not exceed five thousand (5,000) square feet of gross floor area and which supply the regular and customary needs of the residents of the neighborhood and which are primarily for their convenience, as follows:

Antique Shop
Appliance Shop
Arts School, Gallery or Museum
Artists Materials, Supply Studio
Automobile Parking Lot
Baby Shop
Bakery Goods Store
Bank
Barber Shop
Beauty Shop
Book or Stationery Store
Camera Shop
Candy Store
Catering Establishment
Cleaning, Pressing, Laundry Collection Agency
Curio or Gift Shop
Drug Store or Fountain
Dry Goods Store
Dairy Products or Ice Cream Store
Delicatessen
Dress Shop
Florist Shop, Greenhouse, Nursery
Furniture Store
Grocery Store or Supermarket
Hardware Store
Jewelry or Notion Store
Lodge Hall
Meat Market
Medical Facility

Messenger or Telegraph Service
Musical Instrument Sales
Newspaper or Magazine Sales
Office Business
Optometrists Sales and Service
Photographer Studio
Pharmacy
Radio and Television Sales and Service
Restaurant
Self-Service Laundry or Dry Cleaning
Sewing Machine Sales, Instruction
Sporting Goods Sales
Shoe Repair Shop
Tailor Shop
Toy Store
Variety Store

Nameplate and sign relating to the use of the store and premises or to products sold on the premises, not to exceed forty (40) percent of the face of the building.

Accessory buildings and uses customarily incidental to the above uses.

A building used for any of the previously listed uses may not have more than forty (40) percent of its floor area devoted to purposes incidental to the primary use. No material or goods offered for sale or stored in connection with the uses previously listed shall be displayed or stored outside of a building.

(c) Area Regulations

The following requirements shall apply to all uses permitted in this district:

Front Yard

All buildings shall set back from the street right-of-way line to provide a front yard having not less than twenty-five (25) feet in depth.

Side Yard

On the side of a lot adjoining a dwelling district there shall be a side yard of not less than ten (10) feet. There shall be a side yard setback from an intersecting street of not less than twenty-five (25) feet.

Rear Yard

The rear of a lot adjoining a dwelling district there shall be a rear yard of not less than ten (10) feet, same as the requirements for a side yard.

(d) Height Requirements

No building shall exceed three and one-half (3-1/2) stories or forty (40) feet in height.

(7) C-2 General Commercial District

(a) General Description

This commercial district is intended for the conduct of personal and business services and the general retail business of the community. Persons living in the community and in the surrounding trade territory require direct and frequent access. Traffic generated by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

(b) Uses Permitted

Property and buildings in a C-2 general commercial district shall be used only for the following purposes:

Any use permitted in a C-1 neighborhood shopping district
Amusement Enterprises
Advertising Signs or Structures
Ambulance Service, Office or Garage
Automobile Retail Gasoline Service Station
Bakery
Bath House
Boat Sales
Billiard Hall
Bus Terminal
Cleaning Plant, Commercial Laundry or Dry Cleaning
Clothing or Apparel Store
Commercial School or Hall
Cafe
Department Store
Hotel
Feed and Fuel Store
Frozen Food Locker
Furniture Repair and Upholstery
Funeral Parlor or Mortuary
Golf Course, Miniature or Practice Range
Heating, Ventilating or Plumbing Supplies, Sales and Service
Interior Decorating Store
Ice Storage Locker Plant, or Storage House for Food
Key Shop
Laboratories, Testing and Experimental
Laundry

Leather Goods Shop
Museums
Novelty Club
Novelty Shop
Nursery or Garden Supply Store
Outdoor Advertising Signs
Pawn Shop
Pet Shop
Printing Plant
Recreation Center
Research Laboratories
Restaurant
Sign Painting Shop
Hospital for Small Animals
Sporting Goods Store
Stock and Bond Broker
Storage Warehouse
Sale of Beer for Off-Premises Consumption'
Theater
Toy Store
Travel Store
Travel Trailer Park
Used Automobile Sales
Wholesale Distributing Center

Buildings, structures, and uses accessory and customarily incidental to any of the above uses, provided that there shall be no manufacture, processing, or compounding of products other than such as are customarily incidental and essential to retail establishments.

Any other store or shop for retail trade or for rendering personal, professional or business service which does not produce more noise, odor, dust, vibration, or traffic than those listed above.

No article or material stored or offered for sale in connection with uses permitted under paragraph 7(b) shall be stored or displayed outside of a building unless it is so screened by permanent ornamental walls, fences or planting that it cannot be seen from adjoining streets or lots when viewed by a person standing on ground level; provided, however, that no screening in excess of seven (7) feet in height shall be required.

(c) Area Regulations

The area regulations for dwellings shall be the same as the requirements of the A - multiple-family residential district. The following requirements shall apply to all other uses permitted in the district:

Front Side Yards and Rear Yards

There are no specific front, side or rear yard requirements for uses other than dwellings, except where the property is adjacent to residential property, then the yard requirements shall be the same as in the C-1 neighborhood shopping district.

Area for Off-Street Parking

Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in this section.

(8) C-3 Highway Commercial District

(a) General Description

This commercial district is intended for the conduct of personal business services and the general retail businesses of the community having space and land requirements not commonly available or compatible in central business districts.

(b) Uses Permitted

Property and buildings in a C-3 highway commercial district shall be used only for the following purposes:

Any use permitted in a C-2 general commercial district
Boat Sales and Service
Farm Implement and Machinery, New and Used, Sales
Metal and Wood Fencing, Ornamental Grillwork and
Decorative Wrought Iron Work and Play Equipment Sales
Mobile Home and Travel Trailer Sales
Monument Sales
New and Used Automobile Sales and Service
Prefabricated House Sales
Trailers for Hauling, Rental and Sales
Motels or Tourist Courts
Drive-In Theater or Restaurant
Billboards

(c) Area Regulations

The area regulations for dwellings -shall be the same as the requirements of the A - multiple-family residential district. The following requirements shall apply to all other uses permitted in this district:

Front Yard

All buildings shall be setback from the street right-of-way line to provide a front yard having not less than twenty-five (25) feet in depth.

Side Yard

On the side of a lot adjoining a dwelling district there shall be a side yard of not less than ten (10) feet. There shall be a side yard setback from an intersecting street of not less than twenty-five (25) feet.

Rear Yard

On the rear yard of a lot adjoining a dwelling district there shall be a side yard of not less than ten (10) feet. There shall be a side yard setback from an intersecting street of not less than twenty-five (25) feet. In all other cases requirement will be the same as side yards.

(d) Height Regulations

No building shall exceed three and one-half (3-1/2) stories or forty (40) feet in height.

(e) Special Parking and Circulation Requirements

All parking areas and drives shall be designed so that adequate space is provided on the premises for the turning around of motor vehicles, preventing the need for vehicles to back onto the street or highway.

(9) I - General Industrial District

(a) General Description

This industrial district is intended primarily for the conduct of manufacturing, assembling and fabrication. These uses do not depend primarily on frequent personal visits of customers or clients, but usually require good accessibility to major rail, air or street transportation facilities.

(b) Uses Permitted

Property and buildings in an I - general industrial district shall be used only for the following purposes:

Any use, except a residential use, permitted in a C-2 general commercial district. No dwelling uses except sleeping facilities for caretakers and night watchmen employed on the premises shall be permitted.

Bakery
Bottling Works
Book Bindery
Candy Manufacturing
Engraving Plant
Electrical Equipment Assembly
Electronic Equipment Assembly and Manufacture
Food Products Processing and Packing
Furniture Manufacturing
Instrument and Meter Manufacturing
Jewelry and Watch Manufacturing
Laundry and Cleaning Establishment
Leather Goods Fabrication
Optical Goods Manufacturing
Paper Products Manufacturing Wholesale or Warehousing Enterprise
Building Material Sales Yard and Lumber Yard, including the sale of rock, sand, gravel and the like as an incidental part of the main business.
Contractor's equipment storage yard or plant, or rental equipment commonly used by contractors.
Freighting or Trucking Yard or Terminal
Oil Field Equipment Storage Yard
Public Utility Service Yard or Electrical Receiving Yard; provided, however, that all yard operations shall be so screened by ornamental walls, fences, or evergreen planting that it cannot be seen by a person standing at ground level at any place immediately adjacent to the lot on which the use is located; provided, however, that screening shall not be required in excess of seven (7) feet in height.

The following uses when conducted within a completely enclosed building:

The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products;

The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bond, cellophane, canvas, cloth, cork feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stone, shell, textiles, tobacco, wood, yarn, and paint not employing a boiling process;

The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas;

The manufacture and maintenance of electric and neon signs, commercial advertising structure, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and the like;

Manufacture of musical instruments, toys, novelties, and rubber and metal stamps;

Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire retreading or recapping, and battery manufacturing;

Machine Shop;

Foundry casting lightweight nonferrous metal not causing noxious fumes or odors;

Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacturing of small parts only, such as coils, condensers, transformers, crystal holders, and the like;

Buildings, structures, and uses accessory and customarily incidental to any of the above uses;

These uses permitted under this subsection shall be conducted in such a manner that no noxious odor, fumes or dust will be emitted beyond the property line of the lot on which the use is located.

(c) Area Regulations

Front and Side Yard

There are no specific front or side yard requirements for uses in this district; however, that a building shall set back a distance of not less than twenty-five (25) feet from the side lot line that adjoins a dwelling district.

Rear Yard

Where a building is to be serviced from the rear there shall be provided an alley, service court, rear yard or combination thereof of not less than thirty (30) feet in width or of adequate area and width to provide for maneuver of service vehicles, whichever is greater. In all other cases no rear yard is required; provided, however, than a building shall set back a distance of not less than twenty-five (25) feet from the rear lot line that adjoins a dwelling district.

Yard Area

Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in this section.

(d) Height Regulations

No building shall exceed ninety (90)-feet in height.

(10) Planned Development District

(a) General Description

The planned development district is a district which accommodates planned associations of uses developed as integral land use units such as industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing including attached single-family dwellings or any appropriate combination of uses which may be planned, developed, or operated as integral land use units either by a single owner or a combination of owners.

(b) Creation

The city council, after public hearing and proper notice to all affected property owners and after recommendation by the planning and zoning commission, may authorize the creation of a planned development district on sites of two (2) acres or more to accommodate various types of development and conditions of development for any use or combination of uses permitted by this section. The uses to be permitted in any specific planned development district shall be enumerated in the ordinance establishing such district and shown on the approved plan for development which becomes part of said ordinance.

(c) Design Standards

In approving the development plan and the ordinance establishing the planned development district, the city council shall, after recommendation by the planning and zoning commission, specify such maximum height, floor-area ratio density and minimum off-street parking and loading standards within the limits of those specified in the districts listed for the specific uses involved as is appropriate for the development. The city council shall, after receiving the recommendations of the planning and zoning commission, establish the standards for yards, signs, building spacing, site coverage, access, screening or landscaping, building streets and alleys to be observed in a planned development district and such standards shall be specified in the ordinance establishing the district.

(d) Development Schedule

An application for a planned development district shall, if the applicant desires, or the planning and zoning commission or city council requires, be accompanied by a development schedule indicating the appropriate date on which construction is expected to begin and the rate of anticipated development to completion. The development schedule, if adopted and approved by the city council, shall become part of the development plan and shall be adhered to by the owner, developer, and his successors in interest.

(e) Annual Development Report

Annually, where a development schedule has been require, the building inspector shall report to the city planning and zoning commission the actual development accomplished in the various planned development districts as compared with the development schedule.

(f) Failure to Meet Development Schedule

The city planning and zoning commission may if in its opinion the owner or owners of property are failing or have failed to meet the approved schedule, initiate proceedings to amend the zoning district map or the planned development district by removing all or part of the planned development district from the zoning district map and placing the area involved in another appropriate zoning district. Upon the recommendation of the city planning and zoning commission and for good cause shown by the owner and developer, the city council may also extend the development schedule or adopt such new development schedule as may be indicated by the facts and conditions of the case.

(g) Development Plan Required

An application for a planned development district shall include and be accompanied by a development plan which shall become a part of the amending ordinance and shall be referenced on the zoning district map. Changes in the development plan shall be considered the same as changes on the zoning district map and shall be processed as required, except that changes of detail which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, floor-area ratio, height or coverage of the site, or which do not decrease the off-street parking ratio, or reduce the yards provided at the boundary of the site as indicated on the approved development plan may be authorized by the city planning and zoning commission. Any applicant may appeal the decision of the city planning and zoning commission to the city council for review and decision as to whether an amendment to the planned development district shall be required. All uses shown on the development plan shall be mutually exclusive.

(h) Requirements of Development Plan

The development plan shall include:

A scale drawing showing any proposed public or private streets and alleys; building sites or building lots; any areas proposed for dedication or reserve as parks, park-ways, playgrounds, utility and garbage easements, school sites, street widening, street changes; the points of ingress and egress from existing-public streets on an accurate survey of the boundary of tract and topography with a contour interval of not less than five (5) feet, or spot grades where the relief is limited.

Where multiple types of land uses are proposed, a land use plan delineating the specific areas to be devoted to various uses shall be required.

Where building complexes are proposed, a site plan showing the location of each building and the minimum distance between buildings, and between buildings and the property line, street line and/or alley line shall be submitted. For buildings more than one (1) story in height, except single-family and two-family residences, elevations and/or perspective drawings may be required in order that the relationship of the building to adjacent property, open spaces and to other features of the development plan may be determined. Such drawings need only indicate the height, number of floors, and exposures for access, light, and air.

A plan indicating the arrangement and provision of off-street parking and off-street loading where required. Such plan may be presented as a ratio of off-street loading area to building area when accompanied by typical example indicating the feasibility of the arrangement proposed and when the areas where the example would be applied are dimensioned on the drawing of the entire site. Any special traffic regulation facilities proposed or required to assure the safe function of the circulation plan shall also be shown.

A designation of the maximum building coverage of the site shall be indicated upon the site plan.

Screening and landscaping plan shall be required where such treatment is essential to the proper arrangement of the development in relation to adjacent property. Such plan shall, when required, include screening walls, ornamental planting, playgrounds, wooded areas to be retained, lawns and gardens if such are determined to be necessary by city council.

Any or all of the required features may be incorporated on a single drawing if such drawing is clear and capable of evaluation by the city manager and interpretation of the building inspector, building official or other authorized official.

(i) Development Conditions

Every planned development district approved under the provisions of this section shall be considered as an amendment to the zoning ordinance as applicable to the property involved. In carrying out the development of a planned development district, the development conditions and the development schedule, if required, shall be complied with and such conditions as are specified for the development of a planned development district shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be construed as conditions precedent to the granting of a certificate of occupancy and compliance as required in this section.

- (j) In planned development districts, with residential uses, one-family attached dwelling defined as a dwelling unit on a separately platted lot which is joined to another dwelling unit on one (1) or more sides by a party wall or abutting separate wall, served by separate utilities and not occupied by more than one (1) family shall be permitted. The requirements prescribed in the community development may be adopted to residential developments planned as planned developments with variable housing wherein the types of dwelling structure may vary from those permitted in the district in which the development is proposed, as attached single-family or apartments in a single-family area.

One-family attached dwellings need not provide a side yard except that a minimum required side yard adjacent to a side street of ten (10) feet shall be provided. A minimum required side yard of five (5) feet shall be provided at the end of each one family attached dwelling complex so that the ends of any two (2) adjacent building complexes shall be at least ten (10) feet apart. The required side yards for complexes of one-family attached dwellings may be designated upon a plat approved by the planning and zoning commission. A complex of attached one-family dwellings shall have a minimum length of three (3) dwelling units and shall not exceed three hundred (300) feet in length or width of a cluster module.

A single-family attached dwelling shall be located on a platted lot with a minimum width of twenty-five (25) feet, a minimum depth of seventy-five (75) feet and contain a minimum area of three thousand (3,000) square feet. Two (2) off-street parking spaces or a two (2) car garage or carport shall be provided for each living unit. A front setback of twenty (20) feet shall be provided on the side of the structure facing a street, drive or common open area.

Planned development districts with residential uses may also be approved for special apartment designs such as a fourplex, a structure with four (4) living units, or a sixplex, a structure with six (6) living units, all of which must comply with the minimum requirements of the A multiple-family district.

(11) Special Use Permits

(a) General Description

A special use permit for any of the following uses in any use district may be granted and may contain such requirements, conditions and safeguards as are needed to protect adjacent property, and in any case a site plan may be required by the planning and zoning commission or the city council which may be made a part of the regulations granting such special use permit:

College, University or Private Boarding School
Library, Museum, or Art Gallery
Golf Course, Driving Range or Putting Course
Radio, Microwave Relay Tower, or Television Tower
Private above ground Water Storage Tank
Gas or Petroleum Drilling or Storage
Rock Quarries; sand, gravel or earth excavation for off-site use
Airports or Landing Fields for public or private use. A special permit will not become effective until the site is approved by the Civil Aeronautics Administration. When located in the R-1, R-2, R-3 or A-Residence Districts, the site shall contain not less than twenty (20) acres.
Hospitals intended for the care of insane, liquor or narcotics patients. When located in the R-1, R-2, R-3 or A-Residence Districts, the site shall contain not less than twenty (20) acres.
Mobile home park and individual mobile home sites in R-1, R-2 and R-3 Residential Districts.
Dry Board Storage
Dog Kennels and Veterinary Hospitals
Greenhouses and Nurseries
Private Club, Community or Civic Club
Day Nursery or Child Care Center
Kindergarten
Home Beauty Shop
Institutions of a religious, education, recreation or philanthropic nature which are not listed in other subsections of this section.
Sororities, Fraternities and Lodges
Medical Facility
An off-street parking lot
Bait Sales
Electric Transmission Station
Roller Skating Rink
Temporary structures for religious or public gatherings
Carnivals or Amusement Parks
Zoo
Temporary Produce Stand
Motor Raceways
Feed Lot

Athletic Fields or Stadiums
Christmas Tree Sales
Fireworks Sales
Sewage Collection and/or Treatment Utility installation, public or private, not listed in other subsections of this section.
Animal Pound
Home Tropical Fish Sales
Store Selling Beer
Bed and Breakfast
Boarding House
Public Stable
Private Stable
Rooming House
Tourist House

(b) Restricted Uses

A special use permit may be granted for the following uses in the I-Industrial District only:

Cement, lime or gypsum manufacture.
Natural gas, production and distribution.
Petroleum production and refining.
Wholesale or bulk storage of gasoline, propane or butane, or other petroleum products.
Disposal plants of all types including trash and garbage, sewage treatment, including lagoons and compost plants.
Salvage yards for automobiles, building materials, scrap metal, junk, or for any other kind of salvage; provided, however, that all salvage operations shall be so screened by ornamental walls, fences, or evergreen planting that it cannot be seen by a person standing at ground level at any place immediately adjacent to the lot on which the salvage operation is located.

(c) Site Plan

Whenever the city council or the city planning and zoning commission shall require a site plan for a special use permit, such site plan shall show existing improvements on the land and proposed development of the property and shall give the following information.

Date, scale, north point, title, name or owner, and name of person preparing plan;

Location of existing boundary lines and dimensions of the tract;

Centerline of existing watercourses, drainage features, and location and size of existing and proposed streets and alleys;

Location and size to the nearest one-half (½) foot of all proposed buildings and land improvements;

Clear designation of areas reserved for off-street parking and for off-street loading; the location and size of points of ingress and egress; and the ratio of parking space to floor space.

(d) Manufactured Home Parks

(i) Definitions. For the purpose of this Section, certain terms, words, and phrases shall have the meaning hereinafter ascribed thereto.

1. Building Official: Designated inspection authority of the City, or its authorized representative.
2. Certificate of Occupancy: Certificate issued by the City Council for the use of a building, structure, and/or land, when it is determined by the Council that the building, structure, and/or land complies with the provisions of all applicable City Codes, ordinances, and regulations.
3. City Council: City Council of the City of Elgin, Texas.
4. Common Access Route/Internal Street: Private drive allowing principal means of access to individual HUD-Code Manufactured Home lots or auxiliary buildings.
5. Drive Way: Minor entranceway off the common access route within the park, into an off-street parking area serving one or more HUD-Code Manufactured Homes.
6. HUD-Code Manufactured Home: Means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. A manufactured home with dimensions that are less than the length and/or width specified in this paragraph shall not be allowed in a HUD-Code Manufactured Home Park, or any other area designated

for HUD-Code Manufactured Home placement within the City of Elgin, Texas.

7. License: Written license issued by the City Council, permitting a person to operate and maintain a HUD-Code Manufactured Home Park under the provisions of this Section.
8. Mobile Home: A structure that was constructed before June 15, 1976, transportable in one or more Sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. Mobile homes shall not be allowed in a HUD-Code Manufactured Home Park.
9. HUD-Code Manufactured Home Park: A parcel of land which has been placed and improved for the placement of HUD-Code Manufactured Homes, accessory uses, and service facilities, and which complies with all requirements of this Section, applicable deed restrictions, and applicable laws and regulations.
10. Parking Street, Off-Street: A minimum space nine feet (9') in width by eighteen (18') feet in length, located within the boundary of a HUD-Code Manufactured Home space, or in common parking and storage area having unobstructed access to an internal street.
11. Permit: Written permit/certification issued by the City Council permitting the construction, alteration, or extension of a HUD-Code Manufactured Home Park, under the provisions of this Section and regulations issued hereunder.
12. Person: Any natural individual, firm, trust, partnership, association, corporation, or other legal entity.
13. Plot Plan/Site Plan: Graphic representation, drawn to scale, in a horizontal plane, delineating the outlines of the property included in the plan and all proposed use locations, accurately dimensioned, the dimensions also indicating the relation of each use to that adjoining and to the boundary of the property.

14. Sewer Connection: Connection consisting of pipes, fittings, and appurtenances from the drain outlet of a HUD-Code Manufactured Home to the inlet of the corresponding sewer service riser pipe of the sewage system serving the HUD-Code Manufactured Home Park.
15. Sewer Service Riser Pipe: That portion of sewer service which extends vertically to the ground elevation and terminates at a HUD-Code Manufactured Home space.
16. Space: Plot of ground within a HUD-Code Manufactured Home Park designated for accommodation of one HUD-Code Manufactured Home, together with such open space as required by this Section. Term includes "lot" and "site".

(ii) Permits

1. Permit Required - It shall be unlawful for any person to construct, alter, extend or expand any HUD-Code Manufactured Home Park within the limits of the City of Elgin unless he holds a valid permit issued by the City Council in the name of such person for the specific construction, alteration, extension, or expansion proposed.
2. Application Requirements - All applications for permits shall be made upon standard forms provided by the City Council and shall contain the following:
 - a. Name and address of the applicant.
 - b. Location and legal description of the HUD -Code Manufactured Home Park.

To this application shall be attached five (5) copies of a site plan, at a minimum scale of 1" = 200' for sites of 30 acres or more, and at a minimum scale of 1" = 100' for sites under 30 acres. The site plan shall include all data required under Section 27.

3. Permit Fee - All applications to the City of Elgin shall be accompanied by a fee of One Hundred Dollars (\$100.00).

4. Issuance of Permit - When upon review of the application, the City Council is satisfied that the proposed plan meets the requirements of this Section and all applicable laws and regulations, a permit shall be issued.
5. Denial of Permit/Hearing - Any person whose application for a permit under this Section has been denied, may request in writing a rehearing on the matter and offer additional evidence in support of the application.

(iii) Licenses

1. License Required - It shall be unlawful for any person to establish, operate, or maintain or permit to be established, operated or maintained upon any property owned or controlled by said person any HUD-Code Manufactured Home Park within the limits of the City of Elgin unless the person holds a valid license issued annually by the City Council. All applications for licenses shall be made in writing to the City Council on forms furnished by the City. The City Council shall issue a license to the applicant if, upon review, the City Council determines that the applicant is in compliance with all provisions of this Section, and any other applicable laws or regulations. The City Council shall not issue a license unless the applicant is a valid holder of a Certificate of Occupancy which shall be issued by the City Council upon compliance with applicable ordinances and laws. At any time a Certificate of Occupancy is revoked, the license shall be cancelled. Said license shall expire on December 31 of each year.
2. Application for Original License - Application for an original license shall be in writing signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by the deposit of the license fee hereinafter provided, and shall contain:
 - a. The name and address of the applicant.
 - b. A copy of a valid Certificate of Occupancy.
 - c. The location and legal description of the HUD-Code Manufactured Home Park.

- d. A site plan of the HUD-Code Manufactured Home Park prepared in accordance with Section (vii) hereof.
 3. Hearing Granted Applicants - Any person whose application for a license under this Section has been denied may request a rehearing in writing and within ten (10) days of the date of the City Council's decision, which shall be granted by the City Council upon proper request by the applicant.
 4. Application for License Renewal - Application for renewal of a license shall be made in writing by the licensee on forms furnished by the City Council on or before November 1 of each year. Such application shall contain any change in the information occurring after the original license was issued or after the latest renewal was granted and must be accompanied by the HUD-Code Manufactured Home Park register as hereafter provided.
 5. License Fee - All original license applications or renewals hereof shall be accompanied by a fee of Fifty Dollars (\$50.00).
 6. Transfer of License - Every person holding a license shall give notice in writing to the City Council within fifteen (15) days after having sold, transferred, conveyed by gift, or otherwise disposed of interest in or control of any HUD-Code Manufactured Home Park. Applications for the transfer of a license shall be made not later than fifteen (15) days after the date of the sale, transfer, or gift, or other disposition of interest in or control of the HUD-Code Manufactured Home Park, and the City Council shall act thereon at the next regularly scheduled meeting, or as soon as practicable thereafter.
 7. Transfer of License Fee - All applications for a license transfer shall be accompanied by a fee of Fifty Dollars (\$50.00).
- (iv) Violations; Notice; Revocation of License or Permit

Whenever the City Council finds that conditions or practices exist which are in violation of any provisions of this Section, the City Council or its designee shall give notice in writing, in accordance with Section (vi)1. hereof, to the permittee or licensee, or agent, that unless such conditions or practices are corrected within a reasonable period of time, that is, not less than thirty (30) days

nor more than one (1) year as specified in such notice, the license or permit shall be revoked. At the end of said period of time and if such conditions or practices have not been corrected, the City Council may revoke the license or permit and give notice in writing of such revocation to the permittee or licensee, or agent, at the address provided in the application. Upon receipt of notice of revocation, the licensee or permittee shall cease operation of such park within ten (10) days after the notice is issued.

(v) Inspection

Any duly authorized inspector of the city shall be permitted to make reasonable inspections of any HUD-Code Manufactured Home Park to determine compliance with this Section and all applicable laws and regulations.

(vi) Notices, Hearings, and Orders

1. Notice of Violations; Requirements of Notice - Whenever it is brought to the attention of the Council that there has been a violation of any provision of this Section, the City Council, or its designee, shall give notice of such alleged violation to the Permittee or licensee or agent, as hereinafter provided. Such notice shall (1) be in writing; (2) shall include a statement of the reasons for its issuance; (3) allow a reasonable time of not less than thirty (30) days nor more than one year, based upon the nature and severity of the violation and having due regard for the safety and protection of the community, for the performance of the acts to remedy the violation; (4) be served upon the permittee or licensee, or agent; provided that such notice or order shall be deemed to have been properly served upon such permittee or licensee, or agent, when a copy thereof has been sent by mail to his last known address, or when he has been served with such notice by any method authorized or required by the laws of this State; and (5) contain an outline of remedial action which if taken, will effect compliance with the provisions of this Section. If the violation is not remedied in accordance with the Notice, and a breach of the Section continues, then the Council may revoke any permits or licenses issued in addition to any punishment provided in Section (x) hereof.

(vii) Mobile Homes Prohibited in the City of Elgin

1. The installation HUD Manufactured Houses for use or occupancy as a residential dwelling in the City of Elgin,

Texas is prohibited. This provision is prospective and shall not apply to any mobile homes used and occupied as residential dwellings in the City on the effective date of this Section. Mobile homes used and occupied as residential dwellings on the effective date of this Section shall be deemed to be lawful nonconforming use, and such use may continue until discontinued, abandoned, or terminated as provided herein. If the nonconforming mobile home use is abandoned or discontinued for a period of thirty (30) or more days, any future use of the structure and land or portion thereof shall conform with the provisions of this Section. If a nonconforming mobile home is not occupied for a period of thirty (30) or more days, said use is deemed to be abandoned by operation of law. If a nonconforming mobile home is destroyed or damaged to an extent greater than fifty (50) percent of its fair market value by fire, explosion, act of God, or other cause, then any future use of the structure and land on which the mobile home was situated shall conform to the provisions of this Section. A nonconforming mobile home use shall not be enlarged, extended or expanded into any other portion of the land on which the nonconforming mobile home is situated. Nothing in this subsection is intended to prohibit normal repairs and maintenance of a nonconforming mobile home. If a nonconforming mobile home is removed from the parcel of land on which it is situated, any future use of the structure and land on which the mobile home was situated shall conform to the provisions of this Section.

(viii) HUD-Code Manufactured Home Park

1. Site Plan - The site plan shall be filed as required by Section (ii)2. hereof and shall show the following:
 - a. The name, address, fee owner and record owner of the proposed or existing HUD-Code Manufactured Home Park.
 - b. Name of subdivision where the park is located.
 - c. Names of adjacent public streets and roads.
 - d. Contour lines at two foot (2') intervals,

- e. Locations and dimensions of all HUD-Code Manufactured Home spaces, utility easements, drives, recreation areas, streets and sidewalks. Each HUD-Code Manufactured Home space shall be numbered.
- f. Scale of plan (no smaller than 1" = 200') and complete dimensions.
- g. Density in units per gross acre.
- h. Area and dimensions of site.
- i. Areas defined for waste containers and method of disposal of garbage and refuse.
- j. Location of shower and toilet facilities.
- k. Water and Sewer Plans: Water and sewer plans must be submitted showing the following:
 - o Sewer line locations, grades and sizes.
 - o Water line locations and sizes and source of water supply.
- l. Paving and Drainage Plans: Paving and drainage plans must show the directions and calculated quantities of runoff and the proposed specifications for streets.

The City Council, or its designee, shall notify the applicant in writing whether the plan was approved or disapproved, stating the reasons for disapproval and the modifications or conditions that must be made or met before approval can be obtained upon subsequent submission.

- 2. HUD-Code Manufactured Home Park Standards - Any HUD-Code Manufactured Home Park (formerly called a mobile home park) constructed after the adoption of this Section, and any alteration, extension, addition, or expansion to an existing HUD-Code Manufactured Home Park in the City shall be made in compliance with the following site requirements:

- a. Density - A HUD-Code Manufactured Home Park shall have no more than 10 spaces per acre.
 - o Park Area. Each HUD- Code Manufactured Home Park shall be planned for and shall provide a minimum of five (5) acres in area.
- b. Basic HUD-Code Manufactured Home Minimum Site Requirements:
 - o Height Regulations - The height limit for any structure intended for occupancy in the HUD -Code Manufactured Home Park shall be 35 feet. The average height of the HUD-Code Manufactured Home frame above ground elevation, measured at 90° to the frame, shall not exceed four feet from the top of the pad.
 - o Spacing Regulations - HUD-Code Manufactured Homes shall be located no closer than twenty feet (20') from any exterior wall to the closest exterior wall of the nearest HUD-Code Manufactured Home.
 - o HUD-Code Manufactured Home Space. Each and every HUD-Code Manufactured Home shall be located on a separate space which shall conform to the following standards:
- c. Be served with sanitary sewer, water, electrical power, telephone service, and natural gas.
- d. Provide a minimum average width of forty (40) feet and a minimum average depth of eighty (80) feet.
- e. Abut and/or have access to a private street for a minimum distance of twelve (12) feet.
- f. Provide a minimum area of three thousand two hundred (3,200) square feet, said area to be determined by the boundary lines of the space.

- g. Provide a HUD-Code Manufactured Home pad which shall provide an adequate foundation for the placement and tie-down of one single-family HUD Code Manufactured Home thereby securing the superstructure against uplift, sliding rotation, and overturning. Said pad shall:

 - o Be constructed of concrete which shall adequately support the weight of the HUD-Code Manufactured Home placed thereon and be durable and well drained under normal use and weather conditions.
 - o Provide anchors and tie-downs such as cast-in-place concrete "dead men", eyelets embedded in concrete foundations or runway screw augers, arrowhead anchors, or other devices which secure the stability of the HUD-Code Manufactured Home, and shall be placed, at a minimum, at each corner of the HUD-Code Manufactured Home.
 - o Cover an area of at least two hundred forty (240) square feet or at least one-third the area of the largest HUD-Code Manufactured Home which is to be placed on the HUD-Code Manufactured Mobile Home space, whichever is greater. No surface provided for a purpose other than the foundation of HUD-Code Manufactured Home shall be considered a part of such HUD-Code Manufactured Home pad.
- h. Provide a minimum of two (2) off-street parking spaces which shall be constructed of concrete.
- i. Double street frontage of HUD-Code Manufactured Home spaces shall be avoided.
- j. No vehicular access to a HUD-Code Manufactured Home space is permitted from a public street.

- k. Drainage. The ground surface in all parts of every HUD-Code Manufactured Home Park shall be graded and equipped to drain all surface water in a safe and efficient manner so as not to permit water to stand or become stagnant.
3. Design and Location of Storage Facilities - Storage facilities with a minimum capacity of two hundred (200) cubic feet per HUD-Code Manufactured Home space, may be provided on the space, or in compounds located within two hundred (200) feet of the space. Where provided, storage facilities shall be faced with a durable, fire resistant material. Storage outside the perimeter walls of the HUD-Code Manufactured Home shall be permitted only if in such facilities. No storage shall be permitted under a HUD-Code Manufactured Home. Storage facilities shall not be located within ten (10) feet of the boundary line of any HUD-Code Manufactured Home Space boundary line.
4. Location of HUD-Code Manufactured Homes and Accessory- Structures - No HUD-Code Manufactured Home or accessory structure such as a refuse container, carport cabana, awning, fence, or storage locker shall be permitted within ten (10) feet of a private street or the boundary line of a HUD-Code Manufactured Home space boundary line. Provided further that two (2) HUD-Code Manufactured Homes shall not be placed less than twenty (20) feet apart.
5. Setbacks and Screening
- a. No HUD-Code Manufactured Home or structure in a HUD-Code Manufactured Home Park shall be located within the yard setback area. The minimum setback area for each space is:

Front yard - 25 feet
Rear yard - 15 feet
Side yard - 5 feet
 - b. The following screening requirements shall be applicable:
 - o A landscaped strip, not less than ten (10) feet in width or a screening device as defined herein shall be located along all HUD-Code Manufactured Home Park

boundary lines abutting upon a public street or adjoining residential property. Such landscaped strip shall be continuously maintained and shall be devoted exclusively to the planting, cultivation, growing, and maintenance of site obscuring trees, shrubs, and plant life, as described below. Trees, shrubs, cane, and/or other vegetation shall be planted, cultivated, and maintained as a sight and noise obscuring buffer that will effectively achieve sight and noise obstruction within approximately five (5) years. At least one row of trees with a minimum initial trunk diameter of one inch and minimum initial height of five (5) feet shall be planted on twenty-five (25) foot centers. Also, two (2) rows of cane, non-deciduous shrubs and/or other suitable screening plants shall be planted on ten-foot centers. The buffer strips are intended to provide a seventy-five (75) percent or more opaque screen when viewed horizontally between (2) and ten (10) feet above the natural ground at the end of the growing period of five (5) years from the date of planting. Additional planting, cultivation, and maintenance may be required by the City officials during the use period of the buffer strip to achieve and maintain this effect.

6. Access; Traffic Circulation; Parking;
 - a. Internal streets shall be privately owned, built, and maintained. Streets shall be designed for safe and convenient access to all spaces and facilities for common use of park residents.
 - b. All internal streets shall be constructed to specifications set by the City Council and shall be maintained by the owner.
 - c. All private streets shall be constructed with concrete and shall be durable and well drained under normal use and weather conditions.
 - d. Internal Street Dimensions; Parking:

- Internal streets shall be minimum pavement width of 20 feet. Parking shall not be allowed on the minimum street width. An additional lane of nine (9) feet minimum width may be added to one or both sides for off street parking.
- Internal streets shall permit unobstructed access to within at least two hundred (200) feet of any portion of each HUD-Code Manufactured Home.
- Within each HUD-Code Manufactured Home Park, streets shall be named, and HUD-Code Manufactured Homes numbered. Park signs and numbers shall be of standard size and placement to facilitate location by emergency vehicles.
- Private streets which may connect two (2) public street right-of-way(s) shall, by the use of curves, off-sets, location, and/or the use of two (2) or more streets be located so as to discourage through traffic.
- Private street intersections shall generally be at right angle, offsets at intersections of less than 125 feet (centerline to centerline) shall be avoided. The intersection of more than two streets at one point shall be avoided.
- Dead-end private streets shall be limited to a maximum length of one thousand (1,000) feet and shall be provided with a vehicular turning space, with a turning circle of eighty (80) feet in diameter.
- Layout streets and Blocks. Streets shall be laid out to provide a minimum distance of two hundred and forty (240) feet, center to center of parallel streets, between intersections.

- Lighting. The private streets, parking lots, walks, and service areas shall be lighted at all times so the HUD -Code Manufactured Home Park shall be safe for occupants and visitors, provided further all entrances and exits shall be lighted.

7. Fire Safety Standards:

- a. The storage, handling, and use of liquefied petroleum gases and flammable liquids shall be done in compliance with applicable city ordinances and state statutes.
- b. Access to HUD-Code Manufactured Home for Fire Protection. Approaches to all HUD-Code Manufactured Homes shall be kept free of obstructions to allow access by emergency vehicles.
- c. Fire Protection. Water lines and fire hydrants shall be provided and suitably located for adequate fire protection as determined by the City Council but in no case shall the park provide less than a system of standard hydrants located not more than five hundred (500) feet from each HUD-Code Manufactured Home space and served by water lines not less than six (6) inches in diameter installed in a looped system.
- d. The HUD-Code Manufactured Home Park licensee or agent shall provide an adequate system of collection and safe disposal of rubbish, trash, and garbage.

8. Water Supply:

- a. The licensee shall make provisions for all approved water supply for domestic use and fire protection purposes to meet the requirements of the HUD-Code Manufactured Home Park.
- b. All plumbing shall be in accordance with applicable ordinances of the City of Elgin, and all applicable laws and regulations.

9. Sewage disposal - From and after the effective date of this Section, the following shall apply:
- a. Waste from all toilets, lavatories, sinks and showers in HUD-Code Manufactured Home Park shall be discharged into a public sewer or a private disposal system approved by the City Council.
 - b. All plumbing shall comply with applicable plumbing codes.
 - c. Each HUD-Code Manufactured Home pad shall have a sewer riser pipe of at least four inches (4") which shall be capped when not in use.
10. Electrical and Telephone Distribution Systems. From and after the effective date of this Section, the electrical distribution system shall comply with applicable electrical codes and other applicable laws of the State.
11. All rooms containing bathrooms or laundry facilities shall:
- Have fire-resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, tubs, lavatories, and other plumbing fixtures shall be constructed of dense, nonabsorbent, waterproof materials or covered with moisture resistant materials.
12. Refuse and Garbage - Solid waste shall be stored in fly proof, water proof containers, which shall be emptied regularly and maintained in a usable, sanitary condition and the collection and disposal of said refuse and garbage shall be so conducted as to create no health hazard. A refuse pickup easement shall be granted by the owner of the HUD-Code Manufactured Home Park to the City of Elgin, if these facilities are located so as to require the entrance of a municipal vehicle into the HUD-Code Manufactured Home Park.
13. Maintenance of Park. The owner of the park shall be responsible to insure that it is maintained in a manner which will not attract or aid the propagation of insects or rodents or create a hazard. Growth of plant materials such as weeds and grass shall be continuously controlled. All streets, parking and storage areas shall be maintained to provide a fully paved surface.

14. Conform to Codes All HUD-Code Manufactured Home Park facilities and HUD-Code Manufactured Homes contained therein shall conform without limitation to the codes and ordinances of the City of Elgin, including the Building, Plumbing, Electrical, and Fire Codes, and all applicable laws of the State of Texas.

15. Office: Every HUD-Code Manufactured Home Park shall have an office in which a copy of the park permit or license shall be posted and the park register shall be in such office. It shall be the duty of the licensee to keep a register of park occupancy which shall contain the following information:
 - a. Name and address of owner and occupant.
 - b. The make, model, serial number, year, and dimensions of all HUD-Code Manufactured Homes.
 - c. The date of arrival and departure of each HUD-Code Manufactured Home.

The park licensee shall submit the park register to the City Council each year upon requesting license renewal and shall make said register available to any authorized city official upon reasonable request. Upon gaining knowledge of a departure of any HUD-Code Manufactured Home, the park licensee shall notify the city tax assessor. Failure to do the acts required by this subsection shall place the licensee in violation of this Section.

16. Section Compliance. It shall be the responsibility of the licensee to insure that all requirements of this Section are met and maintained. Any HUD-Code Manufactured Home Park issued an initial license after adoption of this Section that is found to be in violation of any provisions of this Section shall be notified in writing by the City Council in accordance with Section (vi), and upon failure to comply, said license shall be revoked.

17. Nonconforming HUD-Code Manufactured Home Park
 - a. Any Mobile Home Park in use and/or existence on the effective date of this Section, and not complying with all applicable provisions of this Section shall be considered a nonconforming

Mobile Home Park. Such nonconforming Mobile Home Park shall conform to the requirements of Ordinance No. 5686, as it existed prior to the effective date of this Section. Nonconforming parks shall however, comply with the requirements of Section (viii) hereof.

- b. Any land area added to a nonconforming Mobile Home Park shall conform to all requirements of this Section.

18. Miscellaneous Requirements:

- a. Responsibilities of the Park Licensee:
 - o All responsibilities set out elsewhere in this Section shall apply.
 - o The licensee or his agent shall operate the park in compliance with this and other applicable sections and shall provide adequate supervision to maintain the park and all facilities in good repair, and in a clean and sanitary condition.
 - o The licensee or agent shall notify park occupants of all applicable provisions of this Section and inform them of their duties and responsibilities under this Section.
- b. Responsibilities of Park Occupants:
 - o All responsibilities of Occupants set out elsewhere in this Section shall apply.
 - o The park occupant shall comply with all requirements of this Section.
 - o The park occupant shall be responsible for proper placement of his HUD-Code Manufactured Home in its HUD-Code Manufactured Home pad and proper installation of all utility connections in accordance with the instructions of the park licensee.

- o The use of space immediately beneath a HUD-Code Manufactured Home for storage shall not be permitted.

- c. Mobile Homes shall not be permitted in a HUD-Code Manufactured Home Park.

- d. Only HUD-Code Manufactured Homes shall be Permitted in a HUD-Code Manufactured Home Park.

(iv) Designated Area for Single-Lot Placement of HUD-Code Manufactured Homes

HUD-Code Manufactured Homes may be placed on single lots situated within the following described area:

Any single lot within the city limits of Elgin, Texas, on which a property owner could legally locate a HUD-Code Manufactured Home immediately before the passage of this Section. After the expiration of two years from the passage of this Section, HUD-Code Manufactured Homes may only be located on lots, if at all, pursuant to the provisions of this Section.

Only one (1) HUD-Code Manufactured Home may be placed and installed on each legal lot situated within the above-described area.

(x) Penalty Provisions

Any person, firm or corporation violating this Section or any portion thereof shall upon conviction be guilty of a misdemeanor and shall be fined not less than \$1.00 nor more than \$500.00 and each day that such violation continues shall be considered a separate offense and punishable accordingly.

(Ordinance No. 98-11-03-54 of November 3, 1998)

D. GENERAL PROVISIONS APPLYING TO ALL OR TO SEVERAL DISTRICTS

(1) Application of Regulation to the Uses of a More Restricted District

(a) More Restrictive District Regulation Applicable

Whenever the specific district regulations pertaining to one (1) district permit the uses of a more restricted district, such uses shall be subject to the conditions as set forth in the regulations of the more restricted district, unless otherwise specified.

(b) Dwelling Units Prohibited When Non-Residential Purposes Intended

It is intended that these regulations be interpreted as not permitting a dwelling unit to be located on the same lot with or within a structure used or intended to be used primarily for nonresidential purposes.

(c) Residential Uses Within Commercial Zone

Residential uses shall not be permitted on the grade level of any building or structure within a Commercial Zone. Residential Use shall be permitted only on or above the second level of any building or structure within a Commercial Zone if said Residential Use fully complies with the most current version of the Southern Standard Building Code or other Building Code as adopted by the City of Elgin.

(Ordinance No. 2001-04-03-10 of April 3, 2001)

(2) Open Space

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth in subsection C of this section:

(a) Existing Building or Structure

An open space or lot area required for an existing building or structure shall not be counted as open space for any other building or structure.

(b) Projections Into Yards

Open eaves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed three (3) feet. Open uncovered porches or open fire escapes may project into a front or rear yard a distance not to exceed five (5) feet. Fences, walls, and hedges in residential district may be erected in any required yard, or along the edge of any yard, providing that no fence, wall or hedge located in front of the front building line shall exceed four (4) feet in height, and no other wall or fence shall exceed seven (7) feet in height.

(c) A fence, hedge or enclosure wall provided: (1) No solid fence or enclosure shall exceed a height of six (6) feet and no such six (6) foot fence or enclosure shall extend closer to any front street than forty (40) feet; (2) an ornamental fence may exceed (6) feet in height but shall have a ratio of solid portion to open portion not in excess of one (1) to four (4) and shall not extend closer to any front street than forty (40) feet; (3) Any fence or enclosure extending closer than forty (40) feet to the front line street shall not exceed a height of four (4) feet; and (4) Any fence, hedge, or enclosure wall on a corner lot, and situated within fifteen (15) feet of the intersections of the two (2) street lines, shall not exceed a height of three (3) feet.

(d) Street Right-of-Way Widths Less than Fifty (50) Feet

Where the dedicated street right-of-way is less than fifty (50) feet, the front yard depth shall be determined by measuring fifty (50) feet back from the centerline of the street easement.

(e) Ingress and Egress to be Provided

No dwelling shall be erected on a lot which does not abut on at least one (1) street at least fifty feet (50) in width, if a through street, and at least thirty (30) feet in width if a dead-end street, for at least thirty-five (35) feet. A street shall form the direct and primary means of ingress or egress for all dwelling units. Alleys, where they exist, shall form only a secondary means of ingress or egress. A garage apartment may be built to the rear of a main dwelling if there is compliance with all other provisions of this section. Accessory buildings which are not a part of the main building may be built in the rear yard but shall not cover more than thirty (30) percent of the rear yard.

(f) Commercial and Industrial Uses

No minimum lot sizes and open spaces are prescribed for commercial and industrial uses. It is the intent of this section that lots of sufficient size be used by any business or industry to provide adequate parking and unloading and loading space required for operation of the enterprise.

(g) Obstructions on Corner Lots Prohibited

On any corner lot on which a front and side yard is required, no wall, fence, sign, structure or any plant growth which obstructs sight lines at elevations between two and one-half (2-1/2) feet and six (6) feet above any portion of the crown of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five (25) feet along the established to form a right triangle on the area of the lot adjacent to the street intersection.

(h) Private Garage Setback

An attached or detached private garage which faces on a street shall not be located closer than twenty-five (25) feet to the street easement line.

(i) Accessory Building Restrictions

No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.

(j) Building in a Cluster Arrangement

Whenever one (1) or more residential, institutional, commercial, or industrial buildings are proposed to be located in a cluster or grouping which has a different arrangement, orientation, or other site planning

variation from that of other buildings, structures, or uses in the area or on adjacent properties, the architectural design, location, orientation, service and parking areas of such buildings shall be planned so as not to adversely affect the use of adjacent or other properties in the area, as determined by the planning and zoning commission.

(3) Height

The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth in subsection C of this section:

(a) Habitable Basement or Attic Counted as a Story

In measuring heights, a habitable basement or attic shall be counted as a story. A story in a sloping roof, the area of which story at a height of four (4) feet above the floor does not exceed two-thirds (2/3) of the floor area of the story immediately below it and which does not contain an independent apartment, shall be counted as a half story.

(b) Projections Not Used for Occupancy

Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.

(c) Public and Semi-Public Buildings

Churches, schools, hospitals, sanatoriums, and other public and semi-public buildings may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in the district are increased one (1) foot for each two (2) feet by which the height of such public or semi-public structure exceeds the prescribed height limit.

(4) Storage and Parking of Trailers and Commercial Vehicles

Commercial vehicles and trailers of all types, including travel, camping and hauling and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the following provisions:

(a) Commercial Vehicle Restrictions

Not more than one (1) commercial vehicle, which does not exceed two (2) tons rated capacity, per family living on the premises, shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline, or other liquefied petroleum products be permitted.

(b) Camping or Travel Trailer Restrictions

Not more than one (1) camping or travel trailer or hauling trailer per family living on the premises shall be permitted, and said trailer shall not exceed twenty-four (24) feet in length, or eight (8) feet in width; and further provided that said trailer shall not be parked or stored for more than forty-eight (48) hours unless it is located behind the front yard building line. A camping or travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area within the incorporated limits except in a trailer court authorized under the ordinances of the city.

(c) Mobile Home Restrictions

A mobile home shall be parked or stored only in conformity with this section and with the ordinances of the city.

(5) Off -Street Automobile and Vehicle Parking and Loading

(a) General Intent and Application

It is the intent of these requirements that adequate parking and loading facilities be provided off the street easement for each use of land within the city. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all districts.

(b) Off-street parking or loading spaces shall be a part of the required open space associated with the permitted use and shall not be reduced or encroached upon in any manner.

The area required for off-street parking shall be in addition to the yard areas herein required; except that the front yard required in a C-1 neighborhood shopping district or an I - general industrial district may be used for uncovered parking area; and further provided that the front drive in a residential district may be used for the uncovered parking area for vehicles associated with a residential use.

(c) Location

The off-street parking lot shall be located within two hundred (200) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley.

(d) Joint Parking Facilities

Whenever two (2) or more uses are located together in a common building, shopping center or other integrated building complex, the parking requirements may be complied with by providing a permanent common parking facility, cooperatively established and operated, which

contains the requisite number of spaces for each use. The total number of spaces provided shall not be less than the sum of the individual requirements.

(e) Size of Off-Street Parking Space

The size of a parking space for one (1) vehicle shall consist of a rectangular area having dimensions of not less than eight (8) feet by twenty (20) feet, plus adequate area for ingress and egress.

(f) Amount of Off-Street Parking and Loading Required

Off-street parking and loading facilities shall be provided in all districts in accordance with the following schedule:

Dwelling, Single-Family or Duplex: Two (2) parking spaces for each separate dwelling unit within the structure.

Dwelling, Multiple-Family: Two (2) parking spaces shall be provided upon the lot for each dwelling unit. No parking shall be permitted in the required front yard. No parking shall be allowed within four (4) feet of any building, nor closer than two (2) feet to the side yard lines. No parking space shall be used for storage of any trucks, truck-trailer, or van, except panel and pickup trucks not exceeding one (1) ton capacity and boat and travel trailers may be parked in a required parking space when the operator or owner of such vehicle resides upon the premises. All parking spaces shall be so arranged as to permit vehicles to be parked and removed without moving one (1) car to facilitate the movement of the other. All parking areas shall be paved according to the city's standard specifications. Travel trailers as defined in this section shall not exceed eight (8) feet in width or twenty-four (24) feet in length.

Boarding or Rooming House or Tourist Home or Bed and Breakfast or Hotel: one (1) parking space for each two (2) guests provided overnight accommodations.

Hospitals: One (1) space for each four (4) patient beds, exclusive of bassinets, plus one (1) space for each staff or visiting doctor, plus one (1) space for each three (3) employees including nurses, plus adequate area for the parking of emergency vehicles.

Medical or Dental Clinics or Offices: Six (6) spaces per doctor plus one (1) space for each two (2) employees.

Sanatoriums, Convalescent or Nursing Homes: One (1) space for each six (6) patient beds, plus one (1) space for each staff or visiting doctor plus one (1) space for each two (2) employees including nurses.

Community Center, Theater, Auditorium, Church Sanctuary: one (1) parking space for each four (4) seats, based on maximum seating capacity.

Convention Hall, Lodge, Club, Library, Museum, Place of Amusement or Recreations: one (1) parking space for each fifty (50) square feet of floor area used for assembly or recreation in the building.

Office Building: One (1) parking space for each three hundred (300) square feet of gross floor area in the building, exclusive of the area used for storage, utilities and building service.

Commercial Establishments Not Otherwise Classified: One (1) parking space for each one hundred-fifty (150) square feet of floor space used for retail trade in the building and including all areas used by the public.

Industrial Establishments: Adequate area to park all employees and customers vehicles at all times and adequate space for loading, unloading and storing all vehicles used incidental to or as a part of the primary operation of the establishment.

For all uses not covered by the previously listed uses, the planning and zoning commission shall make a determination of the parking demand to be created by the proposed use, and the amount of parking thus determined shall be the off-street parking requirement for the permitted use.

(g) Paved Surface Required

All parking spaces shall be paved with a sealed surface pavement and maintained in a manner that no dust will result from continued use.

(h) Off-Street Parking Lots in Residential Districts

Whenever off-street parking lots for more than six (6) vehicles are to be located within or adjacent to a residential district, the following provisions shall apply:

All sides of the lot within or abutting the residential district shall be enclosed with an opaque ornamental fence, wall or dense evergreen hedge having a height of not less than five (5) feet nor more than six (6) feet. Such fence, wall, or hedge shall be maintained in good condition the year round.

No parking shall be permitted within a front yard setback line established fifteen (15) feet back of the property line of interior and corner lots wherever the parking lot is located in a residential district or immediately abuts the front yard of a residential unit. In all other cases no setback shall be required.

All yards shall be landscaped with grass and shrubs and maintained in good condition the year round.

Driveways used for ingress and egress shall be confined to and shall not exceed twenty-five (25) feet in width exclusive of curb returns.

All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use.

Whenever lighting is provided, the intensity of light and arrangement of reflectors shall be such as not to interfere with residential district uses.

No sign of any kind shall be erected except information signs used to guide traffic and to state the condition and terms of the use of the lots. Only nonintermittent white lighting of signs shall be permitted.

(6) Lot Area Requirements for Septic Tanks

Whenever connection with sanitary sewer system will require unreasonable expenditure and septic tanks are to be installed for residential lots, the following requirements shall be met:

(a) Minimum Lot Area

Residential lots shall have an area of at least twelve thousand (12,000) square feet, shall be at least eighty (80) feet wide, and shall be at least one hundred-twenty (120) feet deep.

(b) Additional Lot Area may be Necessary

Where, as the result of necessary percolation tests as required by the city, the city's engineer deems the minimum lot area insufficient, the city shall require additional lot area sufficient to accommodate the sanitary facilities deemed necessary by the city's engineer.

E. NON-CONFORMING USES

Any lawful use of property existing on March 28, 1973, which does not conform to the regulations prescribed herein shall be deemed a non-conforming use and may be continued subject to such regulations as to the maintenance of premises and conditions of operations as may, in the judgment of the board of adjustments, be reasonably required for the protection of adjacent property. A non-conforming use may be extended through an existing building provided no structural alterations, except those required by law or ordinance, shall be made therein, and if no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. A non-conforming use, if changed to a conforming use, may not thereafter be changed back to any nonconforming use. If a non-conforming use

is discontinued for a period exceeding six (6) months, such non-conforming use shall be deemed to have been abandoned and any future use thereof shall conform to the terms of this section.

F. BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

It shall be unlawful for any person, firm, or corporation to commence the construction, enlargement or structural alteration of any building in the city, or use or occupy the same without first applying for and securing a building permit, or to use or occupy the same without first securing a certificate of occupancy and compliance from the building official or such other official designated by the city council. Application shall be made on forms furnished by the building official.

G. SPECIAL PARKING AND AREA REGULATIONS AND EXCEPTIONS

(1) Vision Clearance

On any corner lot on which front and side yards are required, no wall, fence, structure, sign, tree, shrub, or hedge may be maintained as to cause danger to traffic by obstructing the view and when topography prevents a clear view, this bank shall be removed.

(2) Building Lines

(a) Front

The front building line of the main dwelling hereafter constructed in residence districts, or altered in such a manner as to change the position of such front building line, shall be located the distance required from the front lot line as may be required in the residential district in which such dwellings are located.

(b) Extensions into Front Yard

Open porches of dwellings may extend into the front yard a distance of ten (10) feet from the main line of the building. Cornices and eaves of the main building may project not more than three (3) feet into the front yard.

(3) Lot Area

On any lot separately owned on March 28, 1973, a single-family dwelling may be erected even though such lot has less area than required by these regulations.

(4) Location of Dwellings and Buildings

Only one (1) main building for single-family, two-family, or multiple-family use,

with permitted accessory buildings, may be located upon a lot or unplatted tract. Every dwelling shall face or front upon a street or officially approved place, other than an alley, which means of access shall have a minimum width of thirty (30) feet. Where a lot or tract of land is used for local retail or industrial purposes, more than one (1) main building may be located upon the lot but only when such buildings conform to all the open space, parking and density requirements applicable to the uses and district, and when all such main buildings face upon a street or officially approved place, other than an alley. Whenever two (2) or more main buildings, or portions thereof, are placed upon a single lot or tract and such development is approved by the city planning and zoning commission, said buildings shall comply with normal requirements for platting.

H. CHANGES TO AMENDMENTS

(1) City Council May Amend Regulations

The city council may, from time to time, on its own motion or on a proper application or petition amend, supplement, change, modify, or repeal the regulations, restrictions, and boundaries herein established.

- (a) Any person, firm or corporation petitioning the city council for a change in the regulations or the zoning district map, shall do so upon forms provided for such purposes by the office of the city secretary. All petitions or applications for changes in the regulations or zoning district map shall be filed with the office of the city secretary.
- (b) Each such application shall be accompanied by:
 - (i) Plats (one (1) reproducible and three (3) copies) and the plans necessary to show the detail of the proposed change requested as well as the relation of said property to that of all property lying within two hundred feet (200') thereof, and
 - (ii) The street address and suitable legal description of the property proposed to be changed.
- (c) Each application shall be accompanied, at the time of filing, by a fee of two hundred dollars (\$200.00).

I. BOARD OF ADJUSTMENT

(1) Membership, Appointments, General Powers, Etc.

There is hereby created a board of adjustment consisting of five (5) members, each to be appointed by a majority of the city council for a term of two (2) years and removable for cause by the city council. Vacancies shall be filled by the appointment by the city council of a suitable person to serve out the unexpired

term of any member whose place on the board has become vacant for any cause. The city council shall name one (1) member as chairman.

The board is hereby vested with power and authority, in appropriate cases and subject to appropriate conditions and safeguards to make such exceptions to the terms of this section in harmony with its general purpose and intent and in accordance with general or special rules therein continued for the purpose of rendering full justice and equity to the general public. The board may adopt rules to govern its proceedings; provided, however, that such rules are not inconsistent with this section. Meetings of the board shall be held at the call of the chairman, who may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(2) Appeals to the Board of Adjustment to Stay All Proceedings; Exception

Appeals to the board of adjustment can be taken by any person aggrieved or by any officer, department, board or department of municipality affected by any decision of the administrative office. Such appeals shall be taken within fifteen (15) days' time after the decision has been rendered by the administrative office, by filing with the officer from whom the appeal is taken and with the board of adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appeals was taken. An action appealed from shall stay all proceedings upon the action appealed, unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts, stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record or application on notice to the officer from whom the appeal is taken and on due cause shown.

(3) Specific Powers

The board of adjustment shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this section.
- (b) To hear and decide special exceptions to the terms of this section upon which the board is required to pass under this section.

(c) To authorize, upon appeal in special cases, such variances from the terms of this section as will not be contrary to the public interest, where, owing to special conditions, the literal enforcement of the provisions of this section will result in unnecessary hardship, and so that the spirit of this section shall be observed and substantial justice done.

(4) Board May Reverse Any Order

In exercising its powers, the board may, in conformity with the provision of Sections 211.008-211.011, Local Government Code, V.T.C.A., revise or reform, wholly or partly, or may modify the order, requirements, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken.

(5) Votes Necessary to Reverse Decision of Administrative Official

The concurring vote of four (4) members of the board shall be necessary to revise any order, requirements, decision or determination of any such administrative official, or to decide in favor of the application on any matter upon which it is required to pass under this section or to affect any variance in said section.

(6) Appeals From Action of the Board of Adjustment

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment or any taxpayer or any officer, department, or board of municipality 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 in the office of the board and not thereafter.

(7) Filing Fee

Any appeal to the board of adjustment from an adverse ruling by the administrative official shall be accompanied by fifty dollars (\$50.00) in cash to be paid by the person making the appeal to cover the cost of such appeal.

J. UNPLATTED PROPERTY

(1) City Council to Permanently Zone All Plats

The planning and zoning commission shall not approve any plat of any subdivision within the city limits until the area covered by the proposed plat shall have been permanently zoned by the city council.

(2) Pending Annexations

The planning and zoning commission shall not approve any plat of any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the city is pending before the city council.

(3) Commission May Make Zoning and Annexation Recommendation to City Council

In the event the planning and zoning commission holds a hearing on a proposed annexation, it may, at its discretion, at the same time hold a hearing upon the permanent zoning that is to be given to the area or tract to be annexed, and make a recommendation on both matters to the city council so that the city council can, if it desires, act on the matter of permanent zoning and annexation at the same time.

K. ENFORCEMENT

The provisions of this section shall be administered and enforced by the city manager, city secretary, building official, or such other person as may be designated by the city council.

All applications for building permits shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the building to be erected, the use of the property and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of such application and plats shall be kept in the office of the city secretary, or such other person as may be designated by the city council.

L. CHANGES AND AMENDMENTS

(1) City Council May Change Zoning District Boundaries

The city council may from time to time amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established.

(2) Planning and Zoning Commission to Make Recommendations Prior to Council Action

Before taking action on any proposed amendment, supplement, or change, the city council shall submit same to the planning and zoning commission for its recommendation and report.

(3) Public Hearings to be Conducted

Public hearings shall be held only after notices required by the laws of the State of Texas shall have been given in the manner required by law.

(4) Zoning Filing Fee

Any request for a proposed amendment, supplement, or change to this section submitted to the city council shall be accompanied by two hundred fifty dollars (\$250.00) in cash to be paid by the applicant as cost in connection therewith.

M. PENALTY FOR VIOLATION

Any person or corporation who shall violate any of the provision of this section or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building or use in violation of any detailed statement or plan submitted and approved hereunder, shall be guilty of a misdemeanor and shall be liable to the penalty provisions of this code. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof, where anything in violation of this section shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith who may have assisted in the commission of any such violations, shall be guilty of a separate offense and upon conviction, shall be fined as herein provided.

SECTION 3: HISTORIC DISTRICTS

A. PURPOSE

- (1) The City Council of the City of Elgin, Texas, recognizes the historical, cultural and aesthetic importance of certain buildings, structures or districts within the City: and
- (2) The Council desires to protect and preserve such landmarks and districts, and such protection and preservation is in the best interests of both historical preservation and the City's economic well being.

B. DESIGNATION OF HISTORIC DISTRICTS AND LANDMARKS

(1) Historic Districts and Historic Landmarks

The City Council may from time to time designate certain areas in the City of Elgin as historic districts or certain places as historic landmarks. Those provisions pertaining to the designation of historic districts or historic landmarks constitute a part of the Comprehensive Zoning Ordinance of the City of Elgin. Such designation shall be in addition to any other zoning district designation established in Section 2. All zoning maps shall reflect the historic district and landmark designation by the letter "H" as a suffix to the use designation.

(2) Criteria

In making the designation of an area or place as an historic district or landmark, the City Council shall consider one or more of the following criteria:

- (a) Character, interest or value as part of the development, heritage or cultural characteristics of the City of Elgin;
- (b) Location as the site of an historical event;
- (c) Embodiment of distinguishing characteristics of an architectural type or specimen;
- (d) Relationship to other distinctive building, sites, districts or structures which are historically significant and preserved, or which are eligible for preservation;
- (e) Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the City;
- (f) Value as an aspect of community sentiment or public pride;
- (g) Identification with a person or persons who significantly contributed to the development or culture of the City;
- (h) In the case of landmark designation; the designation must be supported by the complete written consent of the property owner(s);

(3) Downtown Historic District

The Elgin downtown area more specifically described below meets several of the aforesaid criteria and is hereby designated an Historic District within the City of Elgin, Texas:

BEGINNING at the northeast corner of the Heine Neidig property locally known as the Elgin Lumber Company, the district boundary follows the easement boundary of the MKT railroad line south southeast to a point directly in line with the centerline of Austin Street;

THENCE southwest along the centerline of Austin Street to its junction with South Avenue B;

THENCE northwest along the centerline of South Avenue B and North Avenue B until its junction with a public alley way behind Depot Avenue;

THENCE northeast along the centerline of said alley until its junction with a public alley running parallel to North Main Street behind Main Street to the west;

THENCE northwestward to a point directly across North Main Street from the point of origin and thence across North Main Street to the point of origin.

Future designation of additional areas or places as historic districts and/or landmarks shall be governed by the further provisions of this ordinance.

(4) Submission to Planning and Zoning Commission for Future Designations

Formal recommendations to the City or by the City for any additional area or location for district or landmark designation shall be submitted to the Planning and Zoning Commission of the City of Elgin within thirty (30) days. The Commission shall give notice and conduct its hearing on the proposed designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided for in the provisions of the Comprehensive Zoning Ordinance of the City of Elgin.

(5) Uses

Nothing contained in this Section or in the designation of property as being in an historic district or being an historic landmark shall affect the present legal use of property. Use classifications as to all property which may be included in an historic district or historic landmark shall continue to be governed by the general zoning provisions of this Chapter and the procedures therein established. In no case, however, shall any use be permitted which requires the demolition, razing, remodeling, or alteration of any buildings or structures in such an historic district or historic landmark so as to adversely affect the character of the district or historic landmark, except upon compliance with the terms of this Section.

C. CREATION OF BOARD

(1) Board and Board Membership

There is hereby created an Historic Review Board of the City of Elgin, Texas, hereinafter called the "Board", consisting of nine (9) members appointed by the City Council. The Board shall be comprised of the following:

- (a) At least five (5) citizens of the City of Elgin;
- (b) At least two (2) members of the Main Street Board so long as such Board is a functioning entity;
- (c) At least two (2) owners of property within the designated Historic District;

- (d) At least two (2) members of the Elgin Historical Association so long as such Association is a functioning entity;
- (e) The building official or his representative shall serve as secretary and ex-officio member of the Board.

(2) Term of Appointment

Each member of the Board shall be appointed for a term of three (3) years, except that of the members of the first Board to be appointed, two shall be appointed to serve for two (2) years, and two for one (1) year. The term shall expire on the 1st day of January of the appropriate year. Any vacancy on the Board shall be filled by the City Council for the remainder of the unexpired term. Any member of the Board who fails to attend at least seventy-five (75%) percent of all regular meetings of the Board within any twelve month period shall be removed from the Board, unless such failure to attend was the result of illness or other acceptable excuse as determined by the City Council.

(3) Chairman and Vice Chairman of the Board

The Chairman and Vice Chairman of the Board shall be elected annually by a majority of the members of the Board, and shall serve a term of one year or until their successors are elected.

(4) Duties of Board

The Board shall act in an advisory capacity only, and shall have no power to bind the City by contract or otherwise. Through the review procedure provided herein, it shall be the function of the Board to advise the Building Official concerning all applications for review in historic districts or historic landmarks and perform any other advisory functions delegated by the City Council.

(5) Meetings

The Board shall meet monthly at a regularly scheduled time, unless no necessary business needs to be conducted. Special meetings may be called upon request of the Chairman, or the Vice Chairman, or upon written request of four (4) members, or upon notice from the Building Official that a matter requires the consideration of the Board. All meetings shall have advance notice posted in accordance with the Texas Open Meetings Law. Five (5) members shall constitute a quorum and action taken at a meeting shall require the affirmative vote of a majority of the members present and voting at such meeting.

D. HISTORIC PRESERVATION REVIEW AND PERMIT REQUIRED; PENALTY

- (1) No person shall proceed to make alterations, changes, restorations, demolitions or removals of or upon any historic landmark or of or upon any building or

improvement within an historic district without first submitting his plans to the Building official as hereinafter provided and after securing a permit to proceed.

- (2) An Historic Preservation Review is necessary for any proposed alteration, change, restoration or removal of any architectural feature of a building or structure, (including exterior signage and painting) for any historically designated property under the provisions of this section. Application for Historic Preservation Review shall be made to the building official through the regular building permit procedure of the City.
- (3) Application shall be deemed complete when submitted upon City forms complete with drawings, plans and specifications or when submitted upon a form and in a form otherwise acceptable to the Building Official.
- (4) No charge or fee will be required for an Historic Preservation Review but the review process, while in conjunction with the building permit process, does not relieve or take the place of building permit and fee requirements provided for elsewhere in this Code.
- (5) Historic Preservation Review acceptance, however, shall be a prerequisite to the issuance of a building permit.
- (6) Any person violating this procedure or any other provision of this ordinance shall be subject to the Penalty provisions of this Chapter set forth in Section 2 subsection L and to the general penalty provisions of this Code set forth in Chapter I Section 5.

E. REVIEW PROCESS

- (1) If the Building Official determines that the application involves ordinary repair or maintenance, or alteration, change, restoration or removal of any exterior architectural feature of a building, structure, or sign which does not involve significant changes in the architectural or historic value, style, general design or appearance, he shall within seven (7) days forward a copy of the application indicating the determination to the Chairman of the Board, or to the Vice Chairman of the Board if the Chairman is not available. The Chairman or Vice Chairman of the Board shall within five (5) business days either approve the Building Official's determination or call for a meeting of the Board to consider the application as provided in paragraph E 3 below. If the Chairman or Vice Chairman of the Board do not take any action within five (5) business days, it shall be deemed that the Board shall take no action and the Building Official shall indicate the application's acceptance for historic review purposes on the building permit.
- (2) If the Building Official determines that the application involves an alteration, change, restoration, removal or demolition of an external architectural feature of a building or structure which involves a significant change in the architectural or

historic value, style, general design or appearance, he shall refer the application to the Board and call for a meeting of the Board to consider the application.

- (3) The Board shall hold a meeting to consider the application within fifteen (15) business days after the Building Official's receipt of a completed application. The applicant shall be given written notice of the time and place of the meeting. The Board may hold any additional meetings it considers necessary to carry out its responsibilities under this section. The Board shall make its recommendation to the Building Official within thirty (30) days after receipt of a completed application unless the Board and the applicant mutually agree to extend the period of review.
- (4) Notwithstanding any other provision of this section, the Board shall make its recommendation to the Building Official within ninety (90) days after receipt of complete application for a permit to demolish an Historic Landmark or a building within an Historic District, or to move an Historic Landmark, or to move a building into or out of an Historic District.
- (5) The Board' shall forward its recommendation to the Building Official. While the Building Official is not bound by such recommendation, he shall within five (5) business days of its receipt give written notice of the application's acceptance or denial. Such notice shall be deemed complete once filed with the City Secretary or by issuance of a permit showing acceptance.
 - (a) In the case of applications that do not involve demolition of an historic building or landmark, an application shall be deemed accepted if no notice of action by the Building Official is given within sixty (60) days after the receipt of a completed application unless time has been mutually extended as provided above.
 - (b) In the case of applications that involve demolition of an historic building or landmark, an application shall be deemed accepted if no notice of action by the Building Official is given within one-hundred (100) days after the receipt of a completed application unless time has been mutually extended as provided above.

F. CRITERIA TO BE USED

- (1) In determining the recommendation and action on acceptance of an application for Historic Preservation Review, the Building Official and Board shall consider the following:
 - (a) The effect of the proposed change upon the general historic, cultural and architectural nature of the district or landmark.
 - (b) The appropriateness of exterior architectural features which can be seen from a public street, alley or walkway.

- (c) The general design, arrangement, texture, material and color of the building or structure and the relation of such factors to similar features of buildings or structures in the district. The criteria shall not be the aesthetic appeal to the Board of the structure or the proposed remodeling but rather its conformity to the general character of the particular historic area involved.
- (d) All signs shall be in keeping with the character of the historic district or landmark.
- (e) The value of the historic district or landmark as an area of unique interest and character shall be impaired.
- (f) The general and specific Secretary of the Interior's Standards for Rehabilitation and Guidelines for Applying the Standards for Rehabilitation.
- (g) The importance of finding a way to meet the current needs of the property owner, and the importance of approving plans that will be economically feasible for the property owner.

G. APPEAL TO CITY COUNCIL

Any person aggrieved by an action of the Board or Building Official relative to the acceptance or denial of an application shall have the right to appeal to the City Council by giving notice of appeal within fifteen (15) days of such action. The Council shall sit as a review board. An appeal hearing shall be set within thirty (30) days of notice. The Council ruling may uphold, over-rule or modify the Building Official's decision.

H. ANNUAL REPORT

- (1) The Board shall make an annual report to the City Council on the state of historic preservations in the City and shall include in the report a summary of its activities for the past year and a proposed program for the next year.
- (2) The Board shall have the further responsibility of recommending to the City Council, Planning and Zoning Commission, and City Departments the adoption of policies, the sources of funds, and designation of historic districts and historic landmarks that may further the City's preservation effort.

(Ordinance No. 89-01 of January 3, 1989 as amended by Ordinance No. 90-09 of May 1, 1990)