

Chapter 71 - ZONING

Sec. 71-1. - Authority.

This chapter is prepared under the authority of V.C.T.A. Local Government Code ch. 211 to promote health, safety, and morals, and for the protection and preservation of places and areas of historical and cultural importance and significance, or the general welfare of the community, and the legislative body is empowered to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of the yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purpose; and, in the case of designated places and areas of historic and cultural importance, to regulate and restrict the construction, alteration, reconstruction or razing of buildings and other structures.

(Ord. No. 953, 12-12-2005)

Sec. 71-2. - Purpose.

These zoning regulations are made in accordance with the spirit of the comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. These regulations are made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

(Ord. No. 953, 12-12-2005)

Sec. 71-3. - Administration, enforcement and fees.

- (a) *Administration.* The building inspector, or designee, is hereby designated by the city council as the administrative official to supervise the administration and enforcement of this chapter. If the administrative official finds that any of the provisions of this chapter are being violated, the official shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The building inspector, or designee, shall order discontinuance of illegal use of land, buildings, or structures, removal of illegal buildings or structures or of illegal additions, alterations, or structural changes, discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.
- (b) *Violations and penalties.* The owner or general agent of a building, premises, lot or parcel where a violation of any provision of the regulations of this chapter has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee, or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor, or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than \$1.00 or not more than \$2,000.00, and each day any violation of noncompliance continues shall constitute a separate and distinct offense.
- (c) *Interpretation and appeals.* It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative official, and that such questions shall be presented to the zoning board of adjustment only on appeal from the decision of the administrative

official, and that recourse from the decisions of the zoning board of adjustment shall be to the courts as provided by law.

- (d) *City council duties.* It is further the intent of this chapter that the duties of the city council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this chapter. Under this chapter, the city council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this chapter, as provided by law, and, of establishing a schedule of fees and charges as stated in subsection (e) here below.
- (e) *Fees.* The city council shall, by ordinance, establish a schedule of fees, charges, and expenses and a collection procedure for the administration, permits, certificates of occupancy, zoning change requests, zoning board of adjustment appeals and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the zoning administrative official, and may be altered or amended only by action of the city council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

(Ord. No. 953, 12-12-2005; Ord. No. O-2012-1071, § 1, 12-10-12)

Sec. 71-4. - Definitions.

For the purpose of this chapter, certain terms and words are defined and shall have the meanings ascribed in this chapter unless it is apparent from the context that different meanings are intended.

Accessory building. A subordinate building, the use of which is incidental to that of the main building on the same lot.

Administrative official. The building inspector, or other designated authority charged with the administration and enforcement of this chapter, or duly authorized representative.

Alley. A public minor way that is used primarily for secondary vehicular service access to the back or side of properties otherwise abutting on a street or highway.

Apartment. A room or suite of rooms in an apartment house arranged, designed or occupied as a dwelling unit residence by a single family, individual, or group of individuals living together as a single housekeeping unit.

Apartment hotel. An apartment house that furnishes services for the use of tenants that are ordinarily furnished by hotels.

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

Approved fence materials means a material normally manufactured as, used as, and recognized as, fencing materials such as wrought iron, or other decorative metals suitable for the construction of fences, fired masonry, concrete, stone, chain link, metal tubing, wood planks, and vinyl or fiberglass composite. Fence materials must also be materials approved for exterior use and are weather and decay-resistant.

Automobile repair, major. Any area used for general repair, rebuilding or reconditioning of engines, motor vehicles, trailers; collision services, including body, frame or fender straightening or repair; paint shop; vehicle steam cleaning.

Automobile repair, minor. Any area used for minor repair or replacement of parts, tires, tubes, batteries and minor motor services, such as, grease, oil, spark plug and filter changing of passenger cars and trucks not exceeding 1½-ton capacity, but not including, any operation named under "automobile repair, major" or any other similar use thereto.

Automobile sales area. An open area or lot used for the display or sale of automobiles, where no repair work is done.

Automobile service station. Any building and/or premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, including the servicing of vehicles designed or calculated to be performed by the customer.

Basement. A building story, the floor line of which is below grade at any entrance or exit, but may have at least one-half of its height above the average level of the adjoining grade level.

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

Boarding-lodging house. A dwelling where in lodging or meals for three or more persons, not members of the principal family therein, is provided for compensation, but not including a building in which ten or more guest rooms are provided.

Building. Any roofed structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind. When such structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yards.

Building height. The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.

Building line. A line parallel or approximately parallel to the street line, at a specific distance there from, marking the minimum distance from the street line that a building may be erected.

Building inspector. See administrative official.

Car wash. A building, or port, where automobiles or other motor vehicles are automatically or manually washed regularly as a business.

Cemetery. Land used, or intended to be used, for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries, if operated in connection with and within the boundaries of such cemetery.

Certificate of occupancy. An official certificate issued by the city secretary which indicates conformance with, or approved conditional waiver from, the zoning regulations and authorized legal use of the premises for which it is issued.

City. The City of La Marque, Galveston County, Texas.

Clinic. A public or private, profit or nonprofit facility for the reception and treatment of outpatient persons, physically or mentally ill, injured, handicapped or otherwise in need of physical or mental diagnosis, treatment, care or similar service.

Club. A nonprofit association of persons who are bona fide members, paying regular dues, and is organized for a common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Club, private (class I). An establishment or enterprise wherein activities are carried on by, or for a group or association, of dues-paying members organized for some common purpose.

Club, private (class II). A club, as defined above, except such establishments shall have been issued an alcoholic beverage permit by the state alcoholic beverage commission.

Community center, public. Any building and grounds owned and operated by the governmental body for the social, recreational, health and welfare of the community served.

Conditional use. Any building, structure, and use which complies with the applicable regulations and standards governing conditional uses of the zoning district in which such building, structure, and use is located, and for which a permit is granted.

Convalescent (rest) home. A home designed for the care of patients after they leave the hospital, but before they are released from observation and treatment.

Convenience store. See neighborhood convenience center.

Court. An open, unoccupied space on the same lot with a building, and bounded on two sides by such building, or the open space provided for access to a dwelling group.

Display sign. A structure that is arranged, intended, designed or used as an advertisement, announcement or direction, including sign, billboard and advertising device of any kind.

District. A portion of the territory of the city, within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this chapter. The term "R district" shall mean any AG, MH, R-1, R-2, or R-3 district; the term "I district" shall mean any I-1 or I-2 district; and the term "C district" shall mean any C-1 or C-2 district.

Dwelling unit. A room, or a group of rooms, including cooking accommodations, occupied by one family, and in which not more than two persons, other than members of the family, are lodged or boarded for compensation at any one time.

Dwelling unit, single-family, attached. A dwelling which is joined to another dwelling at one or more sides by a party wall or abutting separate walls, and is designed for occupancy by one family, and is on a separate lot delineated by front, rear and side lot lines.

Dwelling unit, single-family, detached. A building containing one dwelling unit, and located on a lot or separate building tract, and having no physical connection to a building on any other lot.

Dwelling unit, two-family. A building containing two dwelling units.

Dwelling unit, multiple. A building containing three or more dwelling units.

Dwelling group. A group or row of dwellings, each containing one or more dwelling units, and all occupying one lot or site, as defined herein, and having a court in common; including a bungalow court or apartment court, but not including an automobile court or automobile camp.

Essential services. The erection, construction, alteration, or maintenance by public utilities or by governmental departments or commissions of such underground or overhead gas, electrical, steam, or water transmission or distribution systems and structures, collection, communication, supply or disposal systems and structures, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, street lights, traffic signals, hydrants and other similar equipment, and accessories in connection therewith, but not including buildings or microwave radio relay structures, as are reasonably necessary for the furnishing of adequate service by such public utilities or governmental departments or commissions, or as are required for protection of the public health, safety, or general welfare. For the purpose of this definition, the word "building" does not include "structures" for essential services.

Family. One or more persons, related by blood, marriage or adoption, occupying a dwelling unit as a single, nonprofit housekeeping unit, but not including a group occupying a hotel, boarding house, club, dormitory, fraternity or sorority house.

Farm. An area of two acres or more which is used for the growing of usual farm products, such as vegetables, fruit, trees and grain, and storage on the area, as well as, the raising thereon of the usual farm poultry and farm animals, such as, horses, cattle and sheep, including dairy farms with necessary accessory uses, and for treating and storing the produce; provided, however, that the operation of such accessory shall be secondary to that of the normal activities.

Floodplain. The relatively flat, low lands adjoining the channel of a river, stream or watercourse that has been, or may be, covered by flood water. Any land covered by the water of a 100-year frequency storm is considered in the flood plain and must comply with the Corps of Engineers requirements.

Frontage. All the property abutting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of a dead-end street, or city boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage

on the side of the street that it intercepts. Where a lot abuts more than one street, the planning and zoning commission shall determine the frontage for purposes of this chapter.

Garage, private. An accessory building, or portion of a main building on the same lot, and used for the storage only of private passenger motor vehicles, not more than two of which are owned by others than the occupants of the main building.

Garage, public. A building or portion of a building, except that herein defined as a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire; in which any sale of gasoline, oil, and accessories is only incidental to the principal use.

Garage, repair. A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

Governing body of the residential canal zone. A property owners' association referred to as a "homeowner's association", "community association", "Civic Association", or similar term contained in the deed restrictions.

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

Gross floor area. The living area of a building, including the walls thereof, but excluding all porches, open breezeways and garages.

Height of building. The vertical distance from the grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to a point midway between elevation of the eaves and elevation of the ridges for gable, hip and gambrel roof.

Home occupation. Any occupation, customarily conducted for gain or support, entirely within a dwelling, by a member or members of a family while residing therein, and which is clearly incidental and secondary to the residential use of the premises, and does not change the character thereof.

Hospital. A public or private, profit or nonprofit institution for the reception and treatment of the physically or mentally handicapped, sick or injured, and shall be distinguished by its in-patient facilities. It may also be an institutional sanctuary for the reception of the aged, or for the physically or mentally ill, retarded, infirm or deficient. Permitted accessory uses shall include medical and psychiatric clinics, doctors' offices, sale of medical and surgical specialties and supplies, crutches, artificial members and appliances, training in the use of artificial members and appliances, patient and out-patient services, pharmacies, gift shops, flower shops and similar uses; provided, however, that any such accessory use is so use-wide related to the principal use as to be in fact an integral part of the total purpose, and is incorporated within the same building or building complex; and provided further, that the floor area occupied by all accessory uses does not exceed one-third of the total floor area. Whether or not a questionable use is "similar" or an "integral" part of the total purpose shall be subject to determination by the board of adjustment. Hospital-related x-ray and laboratory facilities shall not be considered accessory uses in computation or area occupancy.

Hotel. A building, or portion thereof, in which ten or more guest rooms are provided for occupancy for compensation by transient guests.

Industry. The storage, repair, manufacture, preparation or treatment of any article, substance or commodity.

Junkyard or salvage yard. Any area used for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials or goods, or used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery, or parts thereof.

Kennel. Any structure or premises on which more than four dogs or four cats, or a combination of dogs and cats not to exceed four in number, over three months of age and/or more than one litter are kept.

Land use plan. The long-range plan for the desirable use of land in the city, as officially adopted, and as amended from time to time, by the city council; the purpose of such plan being, among other things, to

serve as a guide in the zoning and progressive changes in the zoning of land to meet the changing needs, in the subdividing and use of undeveloped land, and in the acquisition of rights-of-way or sites for public purposes, such as, streets, parks, schools and public buildings.

Loading space. An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lodging house. The same as a boarding house.

Lot. The entire parcel of platted land occupied, or to be occupied, by a main building and its accessory buildings, or by a group, such as, a dwelling group or automobile court and their accessory buildings, including the yards and open spaces required there-fore by this title and other applicable law.

Lot, corner. A lot abutting on two intercepting or intersecting streets where the interior angle of intersection or interception does not exceed 135 degrees.

Lot coverage. The total area of a lot occupied by the base (first story of floor) of buildings located on the lot.

Lot, interior. A lot other than a corner lot.

Lot lines. The property lines bounding the lot as defined herein.

Lot, through. A lot having its front and rear lines on different streets, or having its front or rear line on a street and the other line on a river, lake, creek or other permanent body of water.

Lot depth. The average depth from the front line of the lot to the rear line of the lot.

Lot width. The width measured at a distance back from the front line equal to the minimum depth required for a front yard.

Lot of record. A lot that is part of a sub-division, the plat of which has been recorded in the office of the county clerk, or a parcel of land, the deed for which was recorded in the office of the county clerk prior to January 1, 1986.

Main building. A building in which is conducted the principal use of the lot on which it is situated.

Manufactured home, HUD code. 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 or more 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. References in this chapter to "mobile home(s)" shall be taken to be references to HUD code manufactured home(s). Mobile homes, as defined in the manufactured housing standards act, art. 5221f, § 3(a), V.T.C.S., shall not be used as dwelling units within the corporate limits of the city.

Manufactured home lot. That part of a parcel of land (mobile home site) in a manufactured home park that has been reserved for the placement of one HUD code manufactured home.

Manufactured home park or subdivision. A parcel of land which is owned by an individual, a firm, trust, partnership, public or private association or corporation, and has been developed for rental or sale of lots to persons with HUD code manufactured homes.

Modular home. A dwelling that is constructed in one or more modules, at a location other than the homesite, or is constructed utilizing one or more modular components, and which is designed to be used as a permanent residence when the modular components or modules are transported to the homesite and are joined together, or are erected and installed on a permanent foundation system. The term includes the plumbing, heating, air conditioning and electrical systems.

Motel. A building, or a group of two or more buildings, containing guest rooms or apartments, with automobile storage space provided in connection therewith, and used primarily for the accommodation of

automobile travelers, including groups designated as auto cabins, motor lodges, motor courts, motels, and similarly designated groups.

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

Nonconforming use. Use of a building or land, which existed previously, that, does not conform to the present regulations as to use for the district in which it is situated.

Nursing home. A structure or building where ill or elderly people are provided with lodging and meals, with or without nursing care.

Open space. That part of any lot or tract that is used for recreational purposes, both passive and active, but not including areas used for parking or maneuvering of automobiles, or drives or approaches to and from parking areas. Floodplains, or 50 percent of any standing surface water, may be considered as open space, provided such open space is contiguous and part of the platted lot, and is maintained and utilized in the same manner and to the same degree as all other open space areas, as designated on the site plan as filed with the building permit application.

Parking area, private. A permanently surfaced, open area for the same uses as a private garage.

Parking area, public. A permanently surfaced, open area, other than a street, or other public way, used for parking of automobiles, and available to the public for a fee, free, or as an accommodation for clients or customers.

Parking space. A permanently surfaced area not less than 180 square feet (measured approximately nine feet by 20 feet), either within a structure or in the open, not on public right-of-way, exclusive of driveways or access drives, for the parking of one vehicle.

Planned development. Land under unified control, planned and developed as a whole; in a single development operation or a definitely programmed series of development operations, including all lands and buildings; for principal and accessory structures and uses substantially related to the character of the district; according to comprehensive and detailed plans which include not only streets, utilities, and lots or buildings sites, but also site plans, floor plans, and elevations of all buildings, as intended, to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings; and with a program for provision, operation and maintenance of such areas, improvements, facilities, and services as will be for common use by some or all of the occupants of the district, but will not be provided, operated, or maintained at general public expense. Planned development is both a concept and a zoning classification which may include, in addition to planned unit development, commercial, shopping center, and industrial uses or combination thereof, which may be intended to serve areas within the district and areas without the district.

Private garage. An accessory building, housing vehicles owned and used by the occupant of the main building.

Recreational vehicle (RV). A vehicular, portable structure designed to be transported over the highways, and containing living or sleeping accommodations, such structure being designed and actually used as a temporary dwelling during travel for recreation and pleasure purposes, and not exceeding eight feet in width.

Recreation vehicle (RV) park. Any lot or part thereof, or any parcel of land, which is used or offered as a location for one or more recreational vehicles.

Residential canal zone . A community of residential homes predominantly abutting a canal (navigable waterway) designated as single family dwellings, and conforming to R-1 (single family residential).

Rooming house. A dwelling occupied by a resident family or resident occupant, and three or more rent-paying persons.

Satellite dishes. A device used to receive any satellite signal.

School, business or trade. A business organized to operate for a profit and offering instruction and training in a service or art, such as, a secretarial school, barber college, beauty school or commercial art school.

School, elementary and high. An institution of learning which offers instruction in several branches of learning and study required to be taught in the public schools. High schools include junior and senior grades.

Screening element (device). Or suitably screened, as herein referred, shall mean any of the following:

- (1) Any solid material constructed of brick, masonry, or of a concrete or metal frame, or wood, or base which supports a permanent type material, the vertical surface of which is not more than 30 percent open; or
- (2) Any dense evergreen hedge or plant material suitable for providing a visual barrier, for which such material shall be maintained in a healthy growing condition.
- (3) Landscaped earth berms may, when appropriate in scale, be considered and used as a screening element in lieu of a fence, wall, hedge, or other dense planting material.

Screening fence or blind fence means a fence that screens from view the interior of a property so that the visibility through the fence is prevented from the exterior side of the fence.

Shopping center. An area consisting of one acre or more, arranged according to a site plan, to be submitted to and to be approved by the planning and zoning commission and the city council on which is indicated the amount of land to be devoted to the shopping center, the detailed arrangement of various buildings, parking area, streets and type of zoning desired. The installation of all utilities, drainage structure, paving of streets, parking area, alley, and installation of sidewalks shall be in accordance with the city specifications for each type of improvement.

Story. That portion of a building included between the surface of a floor and the surface of a floor next above it, or if there is no floor above it, then the portion of the building between the surface of a floor and the ceiling or roof above it. A basement shall be counted as a story for the purposes of height regulations, if the vertical distance from grade to the ceiling is more than seven feet.

Story, half. The topmost story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

Street. A public or private thoroughfare that affords the principal means of access to abutting property.

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

Towers—radio, television or microwave. Structures supporting commercial antennae for transmitting or receiving any of the radio spectrum (includes structures used for satellites dishes).

Townhouse or row house. Three or more dwelling units attached by common vertical walls.

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

Use, accessory. A subordinate use on the same lot, with the principal use and incidental and accessory thereto.

Used car lot. A lot or tract of land used for the sale, or display for sale, of two or more previously owned motor vehicles, including, but not limited to, passenger automobiles, motorcycles, trucks, dune

buggies and other types of motor vehicles designed for use upon the public roads or for pleasure off public roads, but not including farm implements, manufactured homes, campers and recreational vehicles, or construction equipment, such as, cranes, bulldozers and related equipment and trucks over one ton capacity.

Vehicle service center. A center for the repair and maintenance of, or diagnosis upon, motor vehicles, including tire installation, but not including the sale of gasoline, body work, or spray painting.

Yard. An open space, other than a court, on the same lot with a building.

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

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

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

Zoning map. The official zoning map of the city, together with all amendments subsequently adopted.

(Ord. No. 953, 12-12-2005; Ord. No. O-2014-008, § 2, 3-24-2014; Ord. No. O-2016-0021, § 1, 11-14-2016)

Sec. 71-5. - General provisions.

- (a) *Establishment of districts.* For the purpose of this chapter, the city is hereby divided into nine districts as follows:
- (1) AG agricultural district;
 - (2) R-1 single-family residential;
 - (3) R-2 two-family residential;
 - (4) R-3 multiple-family residential;
 - (5) C-1 general commercial;
 - (6) C-2 restricted commercial;
 - (7) I-1 light industrial;
 - (8) I-2 industrial; and
 - (9) MHP manufactured home park district.
- (b) *Floodplain designation overlay.* Notwithstanding the foregoing, there shall be a district known as a FP floodplain district, which may be coextensive with, or overlap any or all of the foregoing districts, or portions thereof, and any tract of land or portion thereof may, at the same time, be zoned for the uses in one of the foregoing district and be zoned FP floodplain. Where a tract of land or portion thereof is zoned for the uses of one of the foregoing districts and is also zoned FP floodplain, the restrictions contained in the FP floodplain district shall be applicable to said tract or portion thereof and shall take precedence over the other zoning districts.
- (c) *Official zoning map.* The city is hereby divided into zones, or districts, as shown on the official zoning map, which together with all explanatory matter thereon, is in existence and is hereby adopted and declared to be a part of this chapter.

- (d) *Map certified.* The official zoning map shall be identified by the signature of the mayor, attested by the city secretary, and bearing the seal of the city under the following words:

"This is to certify that this is the official zoning map adopted as part of Ordinance No. 953 of the City of La Marque, Texas".

- (e) *Location of map.* The official zoning map shall be in the custody of, and shall remain on file in the office of the building inspector.
- (f) *Public inspection of map.* The official zoning map, or a copy, shall be available for public inspection for all matters that are of public record.
- (g) *Amendment of official zoning map.* When changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the city council.

- (h) *Official zoning map replacement.* The city council may, by ordinance, adopt a new official zoning map should the original reproducible tracing of the official zoning map be damaged, destroyed, lost or become ambiguous because of the nature or number of changes and additions. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city secretary, and bearing the seal of the city under the following words:

"This is to certify that this official zoning map supersedes and replaces the official zoning map adopted (date of adoption of map being replaced) as a part of the Zoning Ordinance of the City of La Marque, Texas."

- (i) *Interpretation.*

- (1) When the district boundaries are either roads or streets, unless otherwise shown, and where the designation of the district map indicates that the various districts are bounded by a road or street line, the center line of such road or street shall be construed to be the district boundary line.
- (2) Where the district boundaries are not otherwise indicated and where property has been subdivided into lots and blocks, the subdivision boundaries shall be construed to be the boundary of the district.
- (3) Where the district boundaries are not otherwise indicated for unsubdivided property, the district boundaries are property lines or section lines, or quarter section lines, or quarter-quarter section lines.
- (4) Where district boundaries are disputed or not otherwise clearly designated, or where the physical or structural features are at variance with the official zoning map, or in other circumstances not covered in this section, the board of adjustment shall interpret the district boundaries.

- (j) *Rules for words and phrases.* For the purposes of this chapter, words used in the present tense include the future tense; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory, not directory; the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, foundation, company, or corporation, as well as, an individual; the word "used" includes designed and intended or arranged to be used; the word "building" includes the word "structure"; the word "lot" includes "building lot" or parcel. Wherever this chapter imposes a greater restriction than imposed by other ordinances, laws, or regulations, the provisions of this chapter shall govern.

- (k) *Compliance with regulations.* The regulations set by ordinance within each district shall be minimum regulations and shall apply uniformly to each class and kind of structure or land, except as hereinafter provided.

- (1) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
 - (2) No building or other structure shall hereafter be erected or altered to exceed the height or bulk, to accommodate or house a greater number of families, or to occupy a greater percentage of lot area than that specified herein for the district in which it is located.
 - (3) No building or other structure shall have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required, or in any other manner contrary to the provisions of this chapter.
 - (4) No part of a yard, other open space, off-street parking or loading space, required about or in connection with any building for the purpose of complying with this section, shall be included as a part of a yard, open space, off-street parking, or loading space similarly required for any other building.
- (l) *Structures to have access.* Every building, hereafter erected or moved, shall be on a lot adjacent to a public street or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
- (m) *Visibility at intersections.* On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner (as with traffic visibility across materially) to interfere the corner. This visibility area shall be a triangle measured 25 feet from the point of right-of-way line intersection. All objects on the ground in said triangle should not exceed two feet in height and vegetation should not droop to less than ten feet from the ground.
- (n) *Fences, walls, and hedges.* Please refer to the city's fence ordinance for specific restrictions.
- (o) *Height and area exceptions.* The regulations contained herein relating to the height of buildings or structures and the size of yards and other open spaces shall be subject to the following exceptions:
- (1) Churches, schools, and other public and quasi-public buildings may be erected to a height not exceeding 60 feet or five stories, provided the front, side, and rear yards required in the district in which such a building or structure is to be located are each increased at least one foot for each foot of additional height above the height otherwise established for the district in which such building or structure is to be located.
 - (2) Chimneys, cooling towers, church steeples or spires, tanks, water towers, television antennas, microwave radio relay or broadcasting towers, mast or aerials, and necessary mechanical appurtenances, are hereby excepted from the height regulations of this section.
 - (3) When a lot has an area less than the minimum number of square feet per family, as required for the district in which it is located, and was of record, as such, at the time of the passage of this chapter, such lot may be occupied by one family subject to the setback, rear yard, and side yard regulations for the district in which it is located.
- (p) *Home occupations.* The purpose of the home occupation provision is to permit the conduct of home occupations that are compatible with the neighborhoods in which they are located. Home occupations are a permitted accessory use in all residential districts, and are subject to the requirements of the district in which the use is located, in addition to the following:
- (1) Only the members of the immediate family occupying the dwelling shall be engaged in the home occupation.
 - (2) The home occupation shall be conducted only within the enclosed area of the dwelling unit or the garage.
 - (3) No more than 25 percent of the area of one story of the principal building shall be devoted to the home occupation.

- (4) There shall be no exterior alterations which change the character thereof as a dwelling, other than those signs permitted in the district.
- (5) No storage or display of materials, goods, supplies, or equipment related to the operation of the home occupation shall be visible outside any structure located on the premises.
- (6) No use shall create smoke, glare, noise, dust, vibration, fire hazard, small electrical interference, or any other nuisance not normally associated with the average residential use in the district.
- (7) The home occupation shall not create any increase in vehicular flow or parking by more than two additional vehicles at a time and shall not create greater pedestrian traffic than normal for the district.
- (8) No more than one advertising sign with a maximum of four square feet of a non-illuminating nature may be placed on the main building.
- (9) Examples of home occupations. The following are examples of uses that can often be conducted within the limits of this section. Uses listed in this paragraph do not automatically qualify as a home occupation, nor does this listing limit the uses that may qualify as home occupations: private school, handicraft, dressmaking, preserving, accountant, artist, author, consultant, individual tutoring (music lessons included), millinery, attorney, and realtor.
- (10) Prohibited uses. The following uses have a tendency to violate the provisions for home occupations, and thereby, impair the character of residential areas. Therefore, the uses specified shall not be permitted as accessory uses in residential districts: commercial auto repairs, painting of vehicles or boats, and child day care center of more than ten children.
- (11) Interpretation of home occupations. The board of adjustment shall interpret the provisions of this section to determine the validity of a home occupation. A use considered not within the scope of the home occupation provisions shall be subject to the provisions of the commercial zones of this chapter.

(Ord. No. 953, 12-12-2005)

Sec. 71-6. - Conditional uses.

After public hearing and proper notice, with or without recommendation by the planning and zoning commission, the city council may authorize the issuance of conditional use permits when the city council finds all of the following conditions present:

- (1) That the establishment, maintenance, or operation of the conditional use will not be materially detrimental to, or endanger, the public health, safety, morals, or general welfare;
- (2) That the uses, values and enjoyment of other property in the neighborhood, for the purpose already permitted, shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance, or operation of the conditional use;
- (3) That the establishment of the conditional use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;
- (5) That adequate measures have been or will be taken to provide ingress or egress, so designed as to minimize traffic congestion in the public streets; and
- (6) That the conditional use shall conform to all applicable yard area regulations of the district in which it is located.

Prior to the granting of any conditional use, the city council may stipulate such conditions, restrictions, and duration upon the establishment, location, construction, maintenance, and operation of the conditional use as deemed necessary to protect the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in subsections (1) through (6) of section 71-6. In all cases in which conditional uses are granted, the city council shall require such evidence and guarantees as it may deem necessary as proof that the conditional use(s) stipulated in connection therewith are being and will be complied with. The granting of a conditional use does not create a right to the use and the conditional use may be canceled at the city council's sole discretion. No application for a conditional use that has been denied wholly or in part by the city council shall be resubmitted for a period of six months from the date of said denial.

(Ord. No. 953, 12-12-2005; Ord. No. 2015-0017, 9-14-2015)

Sec. 71-7. - Annexed territory.

- (a) *Annexed territory to be zoned AG.* All territory, hereafter annexed to the city, shall be temporarily classified as AG agricultural district until permanent zoning is established by the city council, except as provided in subsection (c) below. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure established by law for the adoption of the original zoning regulations.
- (b) *Regulations for temporary AG districts.* In an area temporarily classified as AG:
 - (1) No person shall erect, construct or add to any building or structure, or cause same to be done in any newly annexed territory, without first applying for and obtaining a building permit or certificate of occupancy from the city, as required herein.
 - (2) No permit for the construction of a building or use of land shall be issued other than a permit that will allow construction of a building permitted in AG district(s), unless and until, such territory has been classified in a zoning district other than an agricultural district.
 - (3) An application for a permit for any use, other than that specified above, shall be made to the administrative official and referred to the planning and zoning commission for consideration and recommendation to the city council. The planning and zoning commission, in making its recommendation, shall take into consideration the appropriate land use for the area and the overall plans for the city. The city council, after receiving and reviewing the recommendations of the planning and zoning commission may, by majority vote, authorize the issuance of a building permit or certificate of occupancy, or may disapprove the application as their findings may indicate appropriate in the public interest.
- (c) *Concurrent rezoning and annexation.* The city may consider application(s) for permanent zoning of a newly annexed area at the same time as the area is being considered for annexation.

(Ord. No. 953, 12-12-2005)

Sec. 71-8. - Classification of new and unlisted uses.

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

- (1) The zoning administrative official shall refer the question of any new or unlisted use to the planning and zoning commission, requesting an interpretation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts, listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage, and amount or nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of

noise, odor, fumes, toxic material and vibration likely to be generated, and the general requirements for public utilities, such as, water and sanitary sewer.

- (2) The planning and zoning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts, and, after public hearing, determine the zoning district or districts within which such use should be permitted. The planning and zoning commission shall transmit its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council may approve the recommendation of the planning and zoning commission or make such determination concerning the classification of such use, as is determined appropriate after giving consideration to the facts and recommendations.

(Ord. No. 953, 12-12-2005)

Sec. 71-9. - AG agricultural district.

- (a) *Purpose.* Agricultural District is intended to provide for land within the corporate limits of the city which are not subdivided and/or are relatively undeveloped. This district is designed to promote orderly, timely, economic growth and to recognize current conditions.
- (b) *Principal uses.*
 - (1) Single-family dwellings conforming to R-1 (Single family residential) specifications to be provided city water and sewer where available.
 - (2) Barns, stables, for keeping private stock.
 - (3) Farms and crop production.
 - (4) Truck gardens.
 - (5) Greenhouses, excluding sales.
 - (6) Pasturage in accordance with Code section 44-7
 - (7) Churches
- (c) *Accessory uses.*
 - (1) Private swimming pools.
- (d) *Area and height regulations.*
 - (1) Minimum lot area2 acres
 - (2) Minimum lot width80 feet
 - (3) Minimum lot depth100 feet
 - (4) Minimum front yard50 feet
 - (5) Minimum rear yard20 feet
 - (6) Minimum side yard15 feet
If adjacent to street25 feet
 - (7) Minimum distance between detached structures10 feet
 - (8) Maximum lot coverage by structures20%
 - (9) Maximum height 2.5 stories or 35 feet
 - (10) Maximum height of accessory structure..... 2 stories or 25 feet

- (e) *Screening requirements.* Screening is required along side and rear lot lines when these lot lines are adjacent to any district zoned for residential uses when the usage of the agricultural district presents a nuisance.

(Ord. No. 953, 12-12-2005; Ord. No. O-2013-005, § 1, 6-10-13)

Sec. 71-10. - R-1 single-family residential.

- (a) *Purpose.* This district is the predominant single-family housing district in the city. Unless otherwise specified or requested, all residentially suited areas presently undeveloped, should be zoned in this district. Development in the R-1 district is limited primarily to single-family dwellings and certain community and recreational facilities to serve residents of the district.
- (b) *Uses permitted.* The following uses shall be permitted:
 - (1) One-family dwellings, detached and constructed on site.
 - (2) Modular homes
 - (3) Parks and playgrounds.
 - (4) Athletic fields and playfields, noncommercial, including stadiums and grandstands.
- (c) *Conditional uses.* The following conditional uses may be allowed in the R-1 district, subject to the provisions of section 71-6, and the distances specified in this subsection shall prevail, unless they are modified by the board of adjustment in accordance with the provisions of section 71-6.
 - (1) Public utility and public services;
 - (2) Colleges and universities provided that the zoning lot shall not be less than 40 acres;
 - (3) Churches, parish houses, convents;
 - (4) Public and private schools;
 - (5) Manufactured homes, only as allowed by Ordinance No. 945 and amendments.
- (d) *Area; yard; height; and lot coverage requirements.* The requirements regulating the minimum lot size, minimum yard sizes (front, side, and rear), maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of section 71-20, schedule of district regulations and other applicable provisions of section 71-21, supplementary district regulations.
- (e) *Automobile parking space regulations.* For parking space requirements, see section 71-22.

(Ord. No. 953, 12-12-2005)

Sec. 71-11. - R-2 two-family residential.

- (a) *Purpose.* The R-2, two-family dwelling district, is established to stabilize and protect characteristics of low density residential areas. This district may be suitable as a buffer zone between single-family and higher intensity uses. Development in the R-2 District is limited primarily to two-family dwellings and certain community and recreational facilities to service residents of the district.
- (b) *Permitted uses.* The following uses shall be permitted:
 - (1) Two-family dwellings with additional lot area(s) required herein and constructed on site.
- (c) *Conditional uses.* Permitted conditional uses shall be any use allowed as a conditional use in the R-1 district, subject to the provisions of section 71-6.

- (d) *Area; yard; height; and lot coverage requirement.* The requirements regulating the minimum lot size, minimum yard sizes (front, side, and rear), maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of section 71-20, schedule of district regulations and other applicable provisions of section 71-21, supplementary district regulations.
- (e) *Automobile parking space regulations.* For parking space requirements, see section 71-22.

(Ord. No. 953, 12-12-2005)

Sec. 71-12. - R-3 multiple-family residential.

- (a) *Purpose.* The R-3 district is established to meet the needs for medium to high density residential areas, where such development is in concert with area aesthetics, is environmentally sound, is compatible to the neighborhood, and promotes the character of the community.
- (b) *Uses permitted.* The following uses shall be permitted:
 - (1) Multiple-family dwellings and clustered multiple-family dwellings, which clustered multiple-family dwellings have a site plan approved by the planning and zoning commission for the particular project in which they are proposed;
 - (2) Two-family dwelling units;
 - (3) Churches, parish houses, convents;
 - (4) Country clubs, tennis courts, and such additional recreational uses as are for private recreation purposes or private club recreational purposes;
 - (5) Parks and playgrounds;
 - (6) Accessory uses, including, but not limited, to the following:
 - a. Athletic fields and playfields, noncommercial, including stadiums and grandstands;
 - b. Temporary buildings for storage of building materials and equipment and construction purposes, when on the same or adjoining lot as the principal use, for a period not to exceed the duration of such construction;
 - (7) Existing one-family dwelling units used as such on the effective date of this chapter;
 - (8) Day care centers; and
 - (9) All structures pertinent to this section must be constructed on site.
- (c) *Conditional uses.* The following conditional uses may be allowed in the R-3 district subject to the provisions of section 71-6:
 - (1) Any uses allowed as a conditional use in the R-2 district unless permitted above.
 - (2) Offices for professional uses, such as (without limitation due to enumeration), building contractors, doctors, chiropractors, dentists, attorneys, insurance, real estate, abstract and title, accountants, architects, brokers, engineers, designers, and psychologists.
- (d) *Area; yard; height; and lot coverage requirement.* The requirements regulating the minimum lot size, minimum yard sizes (front, side, and rear), and maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of section 71-20, schedule of district regulations, and other applicable provisions of section 71-21, supplementary district regulations.
- (e) *Automobile parking space regulations.* For parking space regulations, see section 71-22.

(Ord. No. 953, 12-12-2005)

Sec. 71-13. - C-1 general commercial.

- (a) *Purpose.* The C-1 district is established to accommodate those uses that are of citywide and regional significance such as retail, service, and office uses.
- (b) *Generally.*
 - (1) All business, servicing or processing, except for off-street parking, off-street loading and automobile service station operation, shall be conducted within completely enclosed buildings, except as otherwise provided.
 - (2) No use hereunder shall be permitted if said use entails storage or display of items for sale not enclosed by a building, except for incidental display of sale or seasonal retail items and such incidental display shall be permitted.
 - (3) Parking of trucks as an accessory use, when used in the conduct of a permitted business listed in this section, shall be limited to vehicles of not over 1½-ton capacity when located within 150 feet of a residence district boundary line.
- (c) *Uses permitted.* The following uses shall be permitted:
 - (1) Dwelling units on the second floor of a ground floor business use, as long as all requirements have been met in accordance with applicable city ordinances, state and federal laws and regulations;
 - (2) Neighborhood retail sales and service;
 - (3) Business offices;
 - (4) Professional offices, such as, doctors, dentists, attorneys, chiropractors, psychologists, insurance, real estate, architects, engineers, accountants, building contractors, and other similar uses;
 - (5) Clinics, both medical and dental, that could include pharmaceutical sales, provided that such pharmacies are complementary to the primary clinic use of the structure. Other similar medical or dental, diagnostic or therapeutic facilities (except residences) are permitted;
 - (6) Bakeries, cafes, confectioneries, ice cream shops, and restaurants that prepare foodstuffs for onsite retail sale only;
 - (7) Automobile parking lots and structures;
 - (8) Other neighborhood retail sales or service uses, which are similar in character to those enumerated above, and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare, and will not impair the use, enjoyment or value of any property;
 - (9) Churches;
 - (10) Public utility and public service uses;
 - (11) Printer;
 - (12) Antique shops;
 - (13) Art galleries and museums;
 - (14) Banks and financial institutions;
 - (15) Camera and photographic supply stores;
 - (16) Coin and philatelic stores;
 - (17) Department stores;
 - (18) Dry goods stores;

- (19) Florist shops and conservatories;
- (20) Furniture stores;
- (21) Furrier shops, including the incidental storage and conditioning of furs;
- (22) Household appliance stores including sales and services;
- (23) Leather goods and luggage stores;
- (24) Loan offices;
- (25) Musical instruments sales and repair; office supply stores; optical sales;
- (26) Physical culture and health services and reducing salons;
- (27) Picture framing;
- (28) Sporting goods stores;
- (29) Tailor shops;
- (30) Telegraph offices;
- (31) Theaters, indoors;
- (32) Ticket agencies, amusement;
- (33) Tobacco shops;
- (34) Travel bureaus and transportation ticket offices;
- (35) Schools, trade;
- (36) Repair and storage garages;
- (37) Telephone exchanges;
- (38) Theaters, lodges, assembly halls, auditoriums;
- (39) Tire repair shops;
- (40) Auto body operations;
- (41) Automobile accessory stores;
- (42) Automobile service stations, including the incidental storage of rental trucks and trailers, except that trucks and trailers for storage or rental may not be parked within the public right-of-way;
- (43) Blueprinting and photostatting establishments;
- (44) Business machine sales and service establishments;
- (45) Carpet and rug stores;
- (46) Catering establishments;
- (47) China and glassware stores;
- (48) Clothing and costume rental stores;
- (49) Employment agencies;
- (50) Exterminating shops;
- (51) Floor covering;
- (52) Interior decorating shops, including upholstering and making of draperies, slipcovers, and other similar articles when conducted as part of the retail operation and secondary to the principal use;

- (53) Paint and wallpaper stores;
- (54) Phonograph, record, sound equipment and sheet music stores;
- (55) Schools for music, dance, business or trade;
- (56) Upholstery shops;
- (57) Water softener sales and services;
- (58) Vehicle service centers;
- (59) Cleaning and dyeing facilities;
- (60) Recreational vehicle parks;
- (61) Commercial recreation uses, including bowling alleys, arcades, golf driving ranges, gymnasiums, miniature golf courses, pool halls, swimming pools and skating rinks;
- (62) Storage and warehousing establishments;
- (63) Other retail sales and service uses which are similar in character to those enumerated in this subsection, and which will not be dangerous or otherwise detrimental to persons residing at, or enjoyment, or value of, any property, but not including any of the following uses:
 - a. Any use permitted only in an I-1 district;
 - b. Manufacturing and processing other than an accessory use customarily incidental to permitted commercial sales and service uses; or
 - c. Any use which is objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise, or which may impose hazard to health or property.
- (d) *Conditional uses.* The following conditional uses may be allowed in the C-1 district subject to the provisions of section 71-6.
 - (1) Hotels and motels provided that the zoning lot shall be not less than two acres;
 - (2) Dwelling units, restricted to a total gross floor area of 5,000 square feet above the ground floor of a commercial building.
 - (3) Manufactured homes, only as allowed by Ordinance No. 945 and amendments.
- (e) *Area; yard; height; and lot coverage requirement.* The requirements regulating the minimum lot size, minimum yard sizes (front, side, and rear), maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of section 71-20, schedule of district regulations, and other applicable provisions of section 71-21, Supplementary district regulations.
- (f) *Automobile parking space regulations.* For parking space regulations, see section 71-22.

(Ord. No. 953, 12-12-2005)

Sec. 71-14. - C-2 restricted commercial.

- (a) *Purpose.* The C-2 district is established to accommodate those standard retail uses that are generally not hazardous, do not pose a fire or health hazard to neighboring areas, and are commonly purchased and used by consumers in their homes.
- (b) *Generally.*
 - (1) This district is limited to retail stores and local business uses supplying everyday shopping needs of the community.
 - (2) The activity and business shall be conducted within completely enclosed buildings, except as otherwise provided.

- (3) No use hereunder shall be permitted if said use entails storage or display of items for sale not enclosed by a building, except for incidental display of sale or seasonal retail items and such incidental display shall be permitted.
 - (4) All merchandise shall be sold at retail on the premises.
 - (5) Parking of trucks as an accessory use, when used in the conduct of a permitted business listed in this section, shall be limited to vehicles of not over 1½-ton capacity when located within 150 feet of a residence district boundary line.
- (c) *Uses permitted.* The following uses shall be permitted:
- (1) Dwelling units on the second floor of a ground floor business use, as long as all requirements have been met in accordance with applicable city ordinances, state and federal laws and regulations.
 - (2) Neighborhood retail sales and service.
 - (3) Business offices;
 - (4) Professional offices, such as, doctors, dentists, attorneys, chiropractors, psychologists, insurance, real estate, architects, engineers, accountants, building contractors, and other similar uses;
 - (5) Clinics, both medical and dental, that could include pharmaceutical sales, provided that such pharmacies are complementary to the primary clinic use of the structure. Other similar medical or dental, diagnostic or therapeutic facilities (except residences) are permitted;
 - (6) Bakeries, cafes, confectioneries, ice cream shops, and restaurants that prepare foodstuffs for onsite retail sale only;
 - (7) Automobile parking lots and structures;
 - (8) Other neighborhood retail sales or service uses, which are similar in character to those enumerated above, and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare, and will not impair the use, enjoyment or value of any property.
- (d) *Conditional uses.* The following conditional uses may be allowed in the C-2 district subject to the provisions of section 71-6.
- (1) Public utility and public services;
 - (2) Colleges and universities provided that the zoning lot shall not be less than 40 acres;
 - (3) Churches, parish houses, convents;
 - (4) Public and private schools;
 - (5) Single-family residential dwelling units, including modular homes; and
 - (6) Manufactured homes, only as allowed by Ordinance No. 945 and amendments.
- (e) *Area; yard; height; and lot coverage requirement.* The requirements regulating the minimum lot size, minimum yard sizes (front, side, and rear), maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of section 71-20, schedule of district regulations, and other applicable provisions of section 71-21, supplementary district regulations.
- (f) *Automobile parking space regulations.* For parking space regulations, see section 71-22.

(Ord. No. 953, 12-12-2005)

Sec. 71-15. - I-1 light industrial.

- (a) *Purpose.* The I-1 district is established to provide locations for outlets offering goods and services to a targeted segment of the general public as well as industrial users. The district allows for assembly, packaging, and manufacturing of nonhazardous, nonvolatile products.
- (b) *Generally.* Uses permitted in the I-1 district are subject to the following conditions:
- (1) All business, servicing, or processing, except for off-street parking, off-street loading, display of merchandise for sale to the public, and establishments of the "drive-in" type, shall be conducted within completely enclosed buildings, unless otherwise indicated in this section;
 - (2) All storage within 100 feet of a residence district, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened with screening, not less than six feet nor more than eight feet in height, provided no storage located within 50 feet of such screening shall exceed the maximum height of such screening.
- (c) *Uses permitted.* The following uses shall be permitted:
- (1) Any use permitted in the C-1 or C-2, with the exception of residential uses;
 - (2) Advertising products, such as signs and billboards;
 - (3) Awnings, venetian blinds, and window shades;
 - (4) Building materials yard, contractor's yard, lumberyard;
 - (5) Cameras and other photographic equipment;
 - (6) Cosmetics and toiletries, drugs, perfumes, and perfumed soaps, and pharmaceutical products;
 - (7) Electrical appliances, such as lighting fixtures, irons, fans, and toasters;
 - (8) Electrical equipment assembly, such as home radio and television receivers and home-movie equipment, but not including electrical machinery;
 - (9) Electrical supplies, manufacturing and assembly, such as wire and cable assembly, switches, lamps, insulation and dry-cell batteries;
 - (10) Electronic instruments;
 - (11) Jewelry;
 - (12) Medical, dental, and optical supplies;
 - (13) Musical instruments;
 - (14) Orthopedic and medical appliances, such as artificial limbs, braces, supports, and stretchers;
 - (15) Photo finishing associated with a manufacturing process;
 - (16) Scientific and precision instruments;
 - (17) Existing commercial and residential uses in use as such on the effective date of this chapter;
 - (18) Trailer sales and rental, for use with private passenger motor vehicles;
 - (19) Wholesaling establishments;
 - (20) Other wholesale, manufacturing, construction or service uses which are similar in character to those enumerated in this subsection, and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare, and will not impair the use, enjoyment, or value of any property;
 - (21) Factory outlet retail or wholesale store for the sales and servicing of goods or materials on the same premises as the manufacturing company to which they are related, including sales and service in a separate building or buildings.

- (d) *Conditional uses.* The following conditional uses may be allowed in the I-1 district, subject to the provisions of section 71-6, and the distances specified in this subsection shall prevail, unless they are modified by the board of adjustment in accordance with the provisions of section 71-6.
- (1) Public utility and public services;
 - (2) Hotels and motels provided that the zoning lot shall be not less than two acres;
 - (3) Dwelling units, restricted to a total gross floor area of 5,000 square feet above the ground floor of a commercial building.
- (e) *Area; yard; height; and lot coverage requirement.* The requirements regulating the minimum lot size, minimum yard sizes (front, side, and rear), maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of section 71-20, schedule of district regulations, and other applicable provisions of section 71-21, supplementary district regulations.
- (f) *Automobile parking space regulations.* For parking space regulations, see section 71-22.

(Ord. No. 953, 12-12-2005)

Sec. 71-16. - I-2 industrial

- (a) *Purpose.* The I-1 district is established to accommodate most industrial uses and protect such areas from the intrusion of certain incompatible uses that might impede the development and use of such lands for industrial purpose.
- (b) *Generally.* Uses permitted in the I-1 district are subject to the following conditions:
- (1) All business, servicing, or processing, except for off-street parking, off-street loading, display of merchandise for sale to the public, and establishments of the "drive-in" type, shall be conducted within completely enclosed buildings, unless otherwise indicated in this section;
 - (2) All storage within 100 feet of a residence district, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened with screening, not less than six feet nor more than eight feet in height, provided no storage located within 50 feet of such screening shall exceed the maximum height of such screening.
- (c) *Uses permitted.* Uses permitted in the I-1 district shall be as follows:
- (1) Advertising products, such as signs and billboards;
 - (2) Ambulance, bus, train, and taxi stations, truck yards;
 - (3) Awnings, venetian blinds, and window shades;
 - (4) Dairy and other food products, but not including fish and meat products, sauerkraut, vinegar, yeast, alcohol or alcoholic beverages;
 - (5) Boat-building of small craft and other similar assembling;
 - (6) Bottling or distribution plants, milk or soft drinks;
 - (7) Building materials yard, contractor's yard, lumberyard;
 - (8) Cameras and other photographic equipment;
 - (9) Ceramic products, such as pottery, figurines, and small glazed tiles;
 - (10) Cleaning and dyeing plants;
 - (11) Cosmetics and toiletries, drugs, perfumes, and perfumed soaps, and pharmaceutical products;
 - (12) Electrical appliances, such as lighting fixtures, irons, fans, and toasters;

- (13) Electrical equipment assembly, such as home radio and television receivers and home-movie equipment, but not including electrical machinery;
- (14) Electrical supplies, manufacturing and assembly, such as wire and cable assembly, switches, lamps, insulation and dry-cell batteries;
- (15) Electronic instruments;
- (16) Furniture refinishing using a manufacturing or chemical dipping process;
- (17) Insecticide and pesticide, packaging only;
- (18) Jewelry;
- (19) Machine shops and fabrication of metal not more than 10 gauge in thickness;
- (20) Medical, dental, and optical supplies;
- (21) Metal finishing, plating, grinding, sharpening, polishing, cleaning, rustproofing, and heat treatment;
- (22) Metal stamping and extrusion of small products, such as costume jewelry, pins and needles, razor blades, bottle caps, buttons, and kitchen utensils;
- (23) Milk and ice cream processing;
- (24) Monument works;
- (25) Musical instruments;
- (26) Orthopedic and medical appliances, such as artificial limbs, braces, supports, and stretchers;
- (27) Photo finishing associated with a manufacturing process;
- (28) Repair of farm, household, office machinery or equipment;
- (29) Scientific and precision instruments;
- (30) Sheet metal shops;
- (31) Silverware, plate and sterling;
- (32) Shell egg business, candling, cartoning, and distributing;
- (33) Existing commercial and residential uses in use as such on the effective date of this chapter;
- (34) Public utility and public service uses;
- (35) Radar installations and towers;
- (36) Stadiums, auditoriums, and arenas, open or enclosed;
- (37) Storage and warehousing establishments;
- (38) Storage yards, but not including junkyards;
- (39) Trailer sales and rental, for use with private passenger motor vehicles;
- (40) Weighing stations;
- (41) Wholesaling establishments;
- (42) Accessory uses, including but not limited to the following: temporary buildings for construction purposes for a period not to exceed the duration of such construction;
- (43) Other wholesale, manufacturing, construction or service uses which are similar in character to those enumerated in this subsection, and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare, and will not impair the use, enjoyment, or value of any property;

- (44) Factory outlet retail or wholesale store for the sales and servicing of goods or materials on the same premises as the manufacturing company to which they are related, including sales and service in a separate building or buildings.
- (d) *Conditional uses.* The following conditional uses may be allowed in the I-1 district subject to the provisions of section 71-6:
 - (1) Amusement establishments, livestock exhibition halls, including fairgrounds, permanent carnivals, kiddy parks, and other similar outdoor amusement facilities;
 - (2) Asphalt and concrete hatching or ready-mix plants;
 - (3) Concrete products casting;
 - (4) Dwelling units may be permitted only as an accessory use and only for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them;
 - (5) Gasoline and oil storage, wholesale, provided all applicable safety regulations are complied with, and provided, however, that the location is approved by the board of adjustment;
 - (6) Motor freight terminals;
 - (7) Railroad freight terminals, railroad switching and classification yards, repair shops, and roundhouses;
 - (8) Restaurant;
 - (9) Theaters, automobile drive-in; or
 - (10) Automobile and motorized vehicle and equipment display, sales, and service.
 - (11) Existing commercial and residential uses used as such on the effective date of this chapter;
- (e) *Density; area; yard; height; and lot coverage requirement.* The requirements regulating the maximum permissible residential density, minimum lot size, minimum yard sizes (front, side, and rear), and maximum building height (stories and feet), and maximum percent of lot coverage by buildings, as pertains to this district, shall conform with the provisions of section 71-20, schedule of district regulations, and other applicable provisions of section 71-21, supplementary district regulations.
- (f) *Automobile parking space regulations.* For parking space regulations, see section 71-22.

(Ord. No. 953, 12-12-2005)

Sec. 71-17. - MHP manufactured home park.

- (a) *Purpose and scope.* It is the purpose of the MHP manufactured home park district to provide areas for the location of manufactured homes in an attractive, moderate density setting and insure the presence of amenities required for satisfactory quality of life in areas designated for manufactured home use. It is not the intent of this chapter to repeal any section of any ordinance regulating manufactured housing.
- (b) *Principal permitted uses.*
 - (1) HUD code manufactured home; and
 - (2) Public parks, playgrounds, recreational and community center buildings and grounds; public golf courses, public swimming pools, tennis courts and similar recreational uses, all of a noncommercial nature. Any principal building or any swimming pool shall be located not less than 100 feet from any other lot in any residential district.

NOTE: Mobile homes as defined in the Manufactured Housing Standards Act, Article 5221f, Section 3(a), V.T.C.S., shall not be used as dwelling units in the city.

- (c) *Conditional uses.* All conditional uses permitted in the R-1 single-family district.
- (d) *Accessory uses.* All accessory uses permitted in the R-1 single-family district.
- (e) *Height regulations.* No principal structure shall exceed 2½ stories or 35 feet in height, and no accessory structure shall exceed one story, or 20 feet in height.
- (f) *Manufactured home park plan and permit required.* Application for the establishment of a manufactured home park shall be submitted to the building inspector. Four copies or prints of the preliminary plat and proposed improvements shall be submitted to the building inspector. The planning and zoning commission shall review the plat for the manufactured home park and submit a recommendation to the city council. The plat shall contain the following information:
 - (1) Accurate dimensions of the proposed manufactured home park;
 - (2) All roads and approaches and the method of ingress and egress from public streets;
 - (3) Complete electric service installation, wire service outlets and lighting facilities all underground;
 - (4) Complete location of any natural gas facilities to serve the park;
 - (5) Complete layout of unit parking spaces and number of square feet therein, together with the dimensions;
 - (6) Location of electric power or gas distribution systems, water mains or wells for water supply outlets for domestic water users, location of sanitary facilities, washrooms, garbage disposal units, incinerators, sanitary sewers or septic tanks, sewer drain lines, leaching beds, fire protection stalls, and other buildings or structures contemplated to be used by such applicant in connection with the mobile home park;
 - (7) Name and address of the owner and engineer, surveyor of land planner;
 - (8) Proposed name of the park;
 - (9) A northpoint, scale of plat, and date of preparation;
 - (10) Contours at intervals of five vertical feet; and
 - (11) Drainage plans for park.
- (g) *Enlargement.* Any enlargement or extension of any existing manufactured home park shall require application for a building permit as if it were a new establishment. No enlargement or extensions to any manufactured home park shall be permitted unless the existing facility is made to conform with all the requirements for new construction for such an establishment.
- (h) *Minimum standards and requirements.* Manufactured home parks shall be designed and maintained in accordance with the following requirements:
 - (1) Minimum number of spaces: A manufactured home park shall have no less than four manufactured home spaces.
 - (2) Manufactured home lots—minimum requirements.
 - Area: 3,400 square feet with double access.
 - Width: 40 feet.
 - Depth: 85 feet.
 - Side yard: 10 feet.
 - Area: 2,720 square feet with single access
 - Width: 32 feet
 - Depth: 85 feet

Side yard: 10 feet

(i) *General requirements.*

- (1) *Parking.* All areas used for automobile access and parking shall comply with the applicable provisions of this chapter, provided that there shall be at least two off-street parking spaces for each manufactured home lot. The dimensions of each parking space shall be nine feet wide by 20 feet long, and shall be of a hard surface.
- (2) *Entrance to manufactured home parks.* No vehicular entrance to, or exit from, any manufactured home park, wherever such may be located, shall be within 200 feet along streets from any school, public playground, church, hospital, library, or institution for dependents or for children, except where such property is in another block or another street which the premises in question do not abut.
- (3) *Landscaping—unused areas.* All areas not used for access, parking, circulation, buildings, and service shall be completely and permanently landscaped and the entire site maintained in good condition. A landscaped strip of land not less than ten feet in width shall be established and maintained within the mobile home park along the exterior boundaries.
- (4) *Perimeter barrier.* Each boundary of the park must be separated from adjoining property by a natural or artificial barrier at least four feet high.
- (5) *Access.* Each manufactured home park shall abut a public street, and each manufactured home lot shall have direct access to a private interior street.
- (6) *Interior streets.* The minimum roadway width of interior streets will comply with the subdivision regulations and current development standards for the city. Such streets shall be paved according to the city's specifications for residential streets and maintained in good condition and lighted at night.
- (7) *Distances between manufactured homes.* The minimum distance between manufactured homes shall be not less than ten feet.
- (8) *Concrete slab.* Each manufactured home lot shall be equipped with a full concrete slab of sufficient size to support the wheels and front parking jack. Said slab shall have a minimum horizontal dimension of eight by ten feet and a minimum thickness of four inches.
- (9) *Utilities.* Each manufactured home unit shall be equipped with at least one electrical outlet. Manufactured home units not equipped with water and sewer facilities shall be located no more than 200 feet from the community utility building which shall provide separate toilet and shower facilities for each sex. Fire hydrants shall be located in accordance with the specifications of the National Board of Fire Underwriters.
- (10) *Recreational areas.* There shall be provided within each manufactured home park at least one recreation area. Such recreational site or sites shall have a minimum area of at least six percent of the gross land area of the manufactured home park for parks with less than 12 manufactured home stands. For parks with 12 or more manufactured home stands, the required park area shall be 2,050 square feet plus 270 square feet per stand.
- (11) *Length of occupancy.* No trailer or manufactured home shall remain in a manufactured home park for a period exceeding 14 days without connection to the permanent sanitary sewer system of the park. A parking permit must be secured prior to connection to available utilities.
- (12) *Recreational vehicles and boat storage.* A storage area must be provided within each manufactured home park for the parking and storage of boats and recreational vehicles. Said storage area shall be of sufficient size to accommodate all boats and recreational vehicles in the mobile home park. Said storage area shall be screened with a six-foot solid fence of masonry or wooden construction, if adjacent to R-1 district.

(j) *Additional requirements.* In addition to the foregoing, the city council may impose such other conditions, requirements, or limitations concerning the design, development, and operation of such

manufactured home park as it may deem necessary for the protection of adjacent properties and public interest.

(Ord. No. 953, 12-12-2005)

Sec. 71-18. - PD planned development district.

- (a) *Purpose and scope.* The PD planned development district is designed to provide flexibility in development planning and the opportunity for the application of planning concepts. Planned development zoning shall require the submission and approval of a development site plan. The city council after public hearing and proper notice to all parties affected, and after recommendation from the planning and zoning commission, may require the creation of planned development districts when any of the following developments are being considered:
- (1) Large shopping center;
 - (2) Housing development on tracts of five acres or more;
 - (3) Industrial parks or districts on tracts of ten acres or more;
 - (4) Medical center or hospital;
 - (5) Civic center and/or community center;
 - (6) Office, motel or hotel center on tracts of two acres or more;
 - (7) Recreation center;
 - (8) Research park or scientific research center; or
 - (9) A combination of uses that are not customarily allowed in any one of the districts established in this chapter.
- (b) *Application procedures.* Application for a PD district shall be made in the same manner as an application for any amendment to this chapter and shall include the following additional information:
- (1) *Proposed uses.* An application for a PD district shall specify and describe the category or type of use or the combination of uses proposed. Permitted uses under PD zoning shall be specified in each PD ordinance. If such ordinance specifies permitted uses by references to a zoning district, the permitted uses shall include those uses permitted in the reference district, including those permitted through the cumulative provision of this chapter.
 - (2) *Development requirements.* An application for a PD district shall include a list of development requirements, which may be incorporated into the PD ordinance. Development requirements may include, but not be limited to, density, lot size, unit sizes, setbacks, building heights, lot coverage, parking ratios, screening and other requirements the council may deem appropriate.

Standards set forth in specific zoning districts will be used as guidelines for planned developments. Modifications of standards may be considered if the modification substantially meets the intent of the ordinance and improves the overall development design, or if a unique project design is proposed which cannot readily be accommodated through other districts. Pecuniary reasons shall not be the sole reason for modifying standards.
 - (3) *Concept plan.* An application for a PD district shall include a concept plan showing the relationship to existing natural features and adjacent properties and uses.

The concept plan shall be construed as an illustration of the development concepts and not as an exact representation of all specific development details.
- (c) *Development site plan.* Approval of a development site plan shall be a prerequisite to the issuance of building permits for any property in a PD district. The approval of a development site plan may

also serve as preliminary plat approval, provided that all requirements of the subdivision ordinance and its subsequent amendments are satisfied.

- (1) *Compliance with approvals.* The development site plan must comply with all provisions of the PD ordinance specifying development standards and substantially reflect the precepts and layout set forth in the concept plan. If, in the judgment of the planning and zoning commission, a development site plan does not comply with the provisions of the PD ordinance and the concept plan incorporated therein, the planning and zoning commission may reject such plan, in which case a new site plan may be submitted or application must be made to amend the PD ordinance, including all requirements for notices and public hearings. If a PD ordinance does not specify development standards or has not incorporated a concept plan, the development plan approval shall specify such standards. Development requirements on such development plans may be revised under the same review, notice and approval procedures as applied to the original approval of the plan and application to amend the PD ordinance shall not be required.
- (2) *Review process.* The development plan review process shall include review by the planning and zoning commission, referral by the planning and zoning commission to the city council with a recommendation, and review and final approval of the development plan by the city council.
- (3) *Modifications.* The planning and zoning commission may recommend, and the council may require, such modifications of a development site plan that will ensure the proposed project will be in harmony with the existing and anticipated development of surrounding areas.
- (4) *Requirements.*
 - a. General information. 20 copies of development site plan; vicinity map or adequate reference to intersecting streets to locate specific property; north arrow, date, scale (not less than one inch equals 100 feet).
 - b. Site/adjacent property information. Site, indicating boundaries and project phase lines, if any; public or private rights-of-way and easements on site or abutting or intersecting the site; adjacent properties, with zoning and existing uses identified.
 - c. Building layout. Existing and proposed structures, showing approximate outline of perimeter walls and including distances to property lines and other structures; front, side and rear building setback lines; proposed category of use or uses of structures; elevation views or renderings indicating architectural design, building materials proposed and window orientations (one copy required); number of stories, in height and feet; gross floor area; location of entrances and exits.
 - d. Circulation and parking. Location, dimensions and proposed construction of all streets, private drives, alleys, parking areas and drive approaches; street drives and alleys which are adjacent to or dead-end into the site, including the location, of existing and proposed median openings and left-turn lanes in boulevard streets; number and dimensions of parking spaces and width of drive approaches and aisles; sidewalks and other facilities for pedestrian circulation; location, width and curve radii for required fire lanes.
 - e. Drainage/utilities/services. Existing and proposed topography, reflecting proposed handling of on-site surface drainage; limits of the 100-year floodplain and floodway as shown on current FIA mapping, including location and acreage; proposed improvements and method of maintenance for any drainage channels; existing and proposed water and sanitary sewer layout; existing and proposed fire hydrant locations; propose locations for solid waste container pads.
 - f. Screening/open space/recreational facilities. Location, height and building materials for any proposed or required walls or fences; height, location and type of any proposed berms or living screens; location and size (if applicable) of proposed recreation facilities (swimming pools, tennis courts, etc.); location of open play areas and playgrounds with play equipment; landscape plan.

- g. Living units. Table showing type of units by size, number of bedrooms, and number of each type; floor plans for all units.
- (d) *Administrative action.* Upon approval of a development site plan by the city council and approval of the preliminary plat, application may be made for the permits and certificates necessary for construction. Subsequent to such approval, the planning and zoning commission may authorize minor changes when such changes will not cause any of the following circumstances to occur:
 - (1) A change in the character of the development;
 - (2) An increase in the ratio of the gross floor area in structures to the area of any lot;
 - (3) An increase in the intensity of use;
 - (4) A reduction in the originally approved separations between buildings;
 - (5) An increase in the problems of circulation, safety, and utilities;
 - (6) An increase in the external effects on adjacent property;
 - (7) A reduction in the originally approved setbacks from property lines;
 - (8) An increase in ground coverage by structures;
 - (9) Reduction in the ratio of off-street parking and loading space to the gross floor area in structures; and
 - (10) Change in the locations, lighting or orientation of originally approved signs.
- (e) *Standards for townhouse developments.* Development of townhouse projects shall be considered within the scope of the PD planned development zoning classification, thereby providing flexibility in planning and design, and allowing the application of innovative and creative development concepts.

The following standards are set forth as guidelines for the preparation of a development plan as required by section 71-18(b). Consistent with the intent of the planned development district, these standards may be modified as may serve the best interests of the community upon approval of the development plan.

- (1) *Townhouse lots.* The following minimum requirements should apply to each townhouse lot:
 - a. Area of lot: 3,000 square feet;
 - b. Depth of lot: 100 feet, except where the lot backs to a freeway, expressway, or thoroughfare in which case the minimum depth of lot shall be 110 feet;
 - c. Width of lot: 26 feet;
 - d. Front yard setback: 20 feet; and
 - e. Exterior side yard: Where a side lot line abuts a street, the width of the side yard shall be 15 feet.Access to townhouse lots shall be adequate to provide fire protection and sanitation service.
- (2) *Spacing between buildings.* Dwelling units should be in groups of not less than three townhouse units nor more than seven townhouse units; in no event should more than one-quarter of the total building groups contain seven townhouses. The total length of any one group of units should not exceed an overall length of 225 feet. There shall be a minimum space of 36 feet between building groups and 15 feet between the end of a building and a street, private drive, or alley.
- (3) *Open space.* No less than 40 percent of the total gross land area should be open space that shall not be used as an area of principal construction, nor for automobile driveways or parking facilities. Such open space should be used exclusively for the purpose of installation of recreational facilities and green or landscaped areas. Flood plains, or any standing surface

water, other than swimming pools, may be considered open space if specifically approved by council.

- (4) *Density.* The average density of townhouse units should not exceed eight units per acre. The density is to be computed by taking the gross land area of each town house tract and dividing the total number of dwelling units within the tract.
- (5) *Living area in each townhouse unit.* The minimum living area for a one-bedroom townhouse unit shall be 850 square feet; two or more bedroom units shall have a minimum of 1,200 square feet living area, exclusive of garages, breezeways, patios, and porches.
- (6) *Exterior fire resistant construction.* All main buildings shall be of exterior fire resistant construction having exterior walls constructed of brick, stone, concrete block, or other masonry, or materials of equal characteristics, or as approved in the review of the development plan.
- (7) *Fire walls.* Within each townhouse complex, a four-hour, fire-rated firewall shall be placed every 4,500 square feet. All such fire walls shall be continuous and unbroken from the foundation slab to the underside of the roof deck and conform to the other requirements for fire walls as outlined in the building code for the city. All other townhouse unit separation walls shall be of a two-hour rating.
- (8) *Utilities.* All utilities shall be placed underground, except installations aboveground shall be permitted when approved by the city council under the following circumstances:
 - a. Aboveground installations of transformers;
 - b. Where utility lines cross a major drainage channel or depression of such depth as to make underground installation impractical; and
 - c. At the point where the utility enters the development.
- (9) *Parking regulations.* Two and one-half parking spaces shall be provided off the street for each townhouse unit. Each townhouse should provide a carport or garage and shall have a capacity for two motor vehicles (pickups and vans not exceeding three-quarters-ton capacity). The additional one-half parking space per unit shall be placed in groups scattered through the development to accommodate the guests of the homeowners. No more than 50 percent of the additional off-street parking spaces shall be located on private or public streets or alleys.
- (10) *Recreational facilities.* Recreational and community facilities, including community buildings, swimming pools, and playground areas, shall be considered in the review of the development plan.
- (11) *Recreational vehicles and equipment.* Adequate storage areas for the storage of recreational vehicles and equipment shall be considered in the review of the development plan.
- (12) *Screening.* Screening shall be provided according to the following requirements:
 - a. In the event that a townhouse development backs up or sides upon a R-1, R-2, R-3, or C district, a solid masonry screening fence of not less than six feet nor more than eight feet shall be erected and maintained along the property line separating the two districts;
 - b. A masonry screening fence shall consist of materials of equal composition and characteristics as the main buildings in the townhouse development; and
 - c. No such screening fence shall be erected so as to obstruct the vision of motorists at alley, street, or drive intersections.
- (13) *Construction requirements.* All streets, parking areas, access drives, sidewalks, and drainage structures constructed on private or public property shall be approved by the city and constructed in accordance with the city's specifications and requirements.
- (14) *Homeowners' association.* Before approval of any plat containing any common area, it shall be necessary to assure the city that provisions have been made for adequate upkeep and maintenance of such area and facilities. Any such homeowners' or maintenance association, so

established to maintain and manage all such common area, shall be approved by the city council prior to the issuance of any building permits. In the event of failure to maintain said common area, the city may, by ordinance, provide for maintenance at the expense of the property owners, and provide for a lien against the property of the members, as in the case of individual homeowners. The power of the city to file a lien shall be recited in the bylaws of the association.

(Ord. No. 953, 12-12-2005)

Sec. 71-19. - FP floodplain district.

- (a) *Floodplain prefix to district designation.* The FP prefix designation constitutes a zoning overlay district, and the addition or removal of the FP prefix constitutes zoning action requiring due process provided under state law. Further public notice to all downstream property owners within the city with like FP zoning is required prior to any such zoning action. To provide for the appropriate use of land which has a history of inundation or is determined to be subject to flood hazard, and to promote the health, safety and general welfare of the community, portions of certain districts are designated with a floodplain prefix FP and shall be subject to the following provisions.
- (b) *Permitted uses.* In this district, no land shall be used except for one or more of the following permitted uses, to the extent that they are not prohibited by other regulations or ordinances, and provided that such uses do not require above ground structures, filling or storage of material or equipment, except as herein specifically authorized.
 - (1) Agricultural activities including the ordinary cultivation of land or legal forms of animal husbandry.
 - (2) Electrical substation.
 - (3) All types of local utilities, including, but not limited, to water distribution and waste water collection systems, water and waste water treatment facilities and water quality/monitoring stations or other structures required to provide water and sewage, telephone, gas and electrical services.
 - (4) Parks, community centers, playgrounds, public golf courses.
 - (5) Private commercial open area amusements such as golf courses, driving ranges, archery courses and similar uses when approved by conditional use zoning action.
 - (6) Facilities that would warrant no flood protection, such as accessory private open space in conjunction with commercial or residential development, community unit recreational areas or recreation developments.
 - (7) Parking areas associated with a part of contiguous land use.

No building or structure shall be erected in that portion of a district designated with a floodplain FP prefix other than those listed in this subsection. There shall be no dumping, excavation, storage or filling operations within that portion of a district having a floodplain FP prefix designation except under conditions of this chapter.

- (c) *Conditions for adding FP prefix designation.* The city council may, after a public hearing, amend the zoning classification of any property by adding the floodplain FP prefix designation based on hydraulic engineering studies indicating new boundaries of the area that is subject to inundation by floodwaters. The city council shall provide for the addition of such floodplain FP prefix designation to the zoning district maps.
- (d) *Conditions for removal of FP prefix designation.* The city council, in considering and determining its decision relative to any application for the removal of the floodplain FP prefix designation, shall require the applicant to furnish, to the city, fill and development plans, and data concerning the operation, location, function and characteristics of any use of land or building proposed. The

application will not be scheduled for public hearing until the city engineer certifies information furnished is adequate for review and comment as required in this section.

(Ord. No. 953, 12-12-2005)

Sec. 71-20. - Schedule of district regulations.

	AG	R-1	R-2	R-3	C-1	C-2	I-1	I-2	MH
Maximum height (ft.)	50	35	45	45	50	40	50	50	35
Minimum side yard (ft.)	10	5*	5*	5*	5	5	5	5	5
Minimum rear yard (ft.)	10	10	10	10	10	10	10	10	10
Minimum front yard (ft.)	20	20	20	20	20	20	20	20	20
Minimum lot area (sq. ft.)	2 acres	6,000	7,500	7,500	A	A	6,000	6,000	6,000
Minimum building size (sq. ft.)	1,000	1,000	B	B	0	0	0	0	6,000
Masonry and roofing	A	C	C	C	A	C	A	A	A
Minimum lot width (ft.)	60	60	60	60	A	60	A	A	D
Minimum lot depth (ft.)	120	120	120	120	A	120	A	A	D
Maximum building area (%)	A	75	75	75	A	A	A	A	75

Notes:

- A None required except where a nonresidential use abuts a residential lot the requirement shall be the same as the adjoining residential zone and shall comply with visibility and parking requirements as provided within this chapter.
- B Minimum building size shall be for one bedroom unit: 650 square feet; two bedroom: 780 square feet; three bedroom: 930 square feet.
- C Masonry requirements shall mean the entire front facade (wall) for non-corner lots and the two street-facing facades for corner lots. The material can be brick, stone, glass, wood, or similar materials, but shall not be metal. Roofing materials shall be composition shingles, wood shingles, tile, or similar materials, but shall not be metal.

D Refer to Ordinance 945 and amendments for additional manufactured home district regulations.

* For corner lots, 10 feet from the side street property line.

The schedule of district regulations notwithstanding, the exterior of additions and/or modifications to existing nonmasonry single-family residential structures and accessory buildings to such structures may consist of materials consistent with the exterior of the existing structure.

(Ord. No. 953, 12-12-2005; Ord. No. 965, § 1, 9-11-2006)

Sec. 71-21. - Supplementary district regulations.

(a) *Screening elements and fences.* In order to provide maximum safety to pedestrians and motorists at intersections and at ingress and egress points from public streets, highways, and alleys to private property, to conserve and protect the value of adjacent land and buildings; to protect aesthetic views and vistas, to secure hazardous areas from unauthorized entry, to contain livestock and other agricultural activities, and to screen and protect permitted outside materials storage areas, the following regulations are prescribed for the location, type, and height of regulated required and nonrequired screening elements and fences. The term "screening element" as used herein is defined in section 71-4.

(1) *Traffic visibility at intersections.* On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 25 feet from the point of the intersection.

(2) *Traffic visibility at interior lots.* On an interior lot in any district, nothing shall be erected placed, planted, or allowed to grow in such a manner as to materially impede the vision or in any way create a traffic hazard to motorists entering or exiting any public highway, street, alley, or private street or driveway from or to adjacent private property.

(3) *Residential districts—General.*

a. Screening elements and fences shall be restricted to a maximum height of seven feet, measured from the adjacent grade line, except as otherwise allowed.

b. Nonresidential uses in a residential district shall be suitably screened from view, to a height not less than six feet or more than twelve feet of any adjacent residential lot or dwelling use along the side and rear property lines of such nonresidential use. Said screening requirements shall not be mandatory for public schools, parks or churches, except where a parking lot or active outdoor intensive use area (such as a playground) is adjacent to a residential lot or dwelling. Parking lot screening need not be more than three and one-half feet in height. Off-street loading areas of any nonresidential use shall be adequately screened from view of any residential dwelling or lot or of any other adjacent public or semi-public land use.

c. Screening fences or blind fences shall be prohibited in front yards.

(4) *Nonresidential districts—General.*

a. Where a nonresidential use abuts a residential lot, use or district, the side and rear property lines abutting said residential lot, use, or district shall be suitably screened by the nonresidential use so as to obscure the view from the residential lot, use or district to the nonresidential use to a height not less than six feet nor more than eight feet.

b. Where a district boundary separating a residential district from a nonresidential district is along a street or alley, and an automobile parking lot or parking area is located in the front yard of the nonresidential use, then said parking lot or parking area facing the residential lot, use, or district shall be suitably screened to a height of not less than 3½ feet.

- c. Where garbage, refuse, and trash collection/storage is permitted and the screening thereof is required, then such screening shall be provided around the entire perimeter thereof of not less than six feet nor more than eight feet in height.
- d. In all districts where open storage is permitted and the screening thereof is required, then such screening shall be provided around the exposed perimeter thereof of not less than six feet nor more than eight feet in height.
- e. Off-street loading areas shall be adequately screened from view of any residential dwelling or of any other adjacent residential land use.
- f. No screening element comprised of brick, masonry, concrete, or solid metal shall be erected or placed which would interfere with the installation or maintenance of any public utility line, service, or drainage way, within the easements reserved therefor.
- g. All required screening elements shall be permanently and adequately maintained by the nonresidential property owner.

(5) *Barbed wire fences.*

- a. Barbed wire fences used in conjunction with permitted agricultural and related activities and in industrial districts is permitted without restrictions, but is expressly prohibited in all other districts except as provided below.
- b. Barbed wire strands may be placed on top of permitted fences and screening elements in an industrial or general commercial district for the purpose of security from theft, entry, and hazard around public utility substations and uses of a similar nature, provided the top strand is not higher than eight feet nor the bottom strand lower than six feet from the adjacent grade line.

(b) *Accessory buildings.* The following regulations shall govern the location, size, and use of any accessory buildings:

- (1) No accessory building shall be erected in any required yard area as stipulated in this chapter, except as allowed in the following paragraphs.
- (2) No accessory building shall be erected within ten feet of any other building, except detached residential garages may be located within five feet of the main dwelling, and except as the provisions of paragraph (5) below are met.
- (3) No detached residential garage or carport shall be erected or placed closer to any street or alley right-of-way line than the minimum yard requirements (building set-back line) governing the district in which such garage or carport is located.
- (4) No detached residential garage or carport shall be erected or placed within eight feet from any side lot line.
- (5) Residential accessory buildings and sheds housing domestic lawn and garden equipment and all other household effects may be detached or attached to the main building, but shall not encroach in any required front yard, and may not occupy more than 30 percent of the rear yard.
- (6) No accessory building shall be used for dwelling purposes other than by domestic servants employed on the premises, as provided in the applicable zoning district.
- (7) No accessory building shall be higher than the main building and in no case be in excess of 18 feet in height.
- (8) No accessory building shall be erected or placed within three feet of any side or rear lot line and shall not encroach upon any easement.

(c) *Projections of buildings, structures, and appurtenances into required yards.*

- (1) Open or lattice enclosed fire escapes may project into a required yard not to exceed five feet. The ordinary projections of chimney's pilasters shall be permitted by the city's building inspector when placed so as not to obstruct light and ventilation.
 - (2) Terraces, balconies, decks, uncovered porches and ornamental features, which do not extend more than four feet from the side wall line and being at least seven feet above the floor level of the ground (first) story, may project into a required side yard, provided these projections be a distance at least four feet from any adjacent side lot line. Such features may not project onto a required front or rear yard more than eight feet from the front or rear wall line.
 - (3) An unenclosed porch containing not more than 40 square feet may project into a required front yard for a distance not to exceed five feet.
 - (4) A carport or canopy may project into a required side yard, provided every part of such carport or canopy is unenclosed, except for necessary structural supports, and not less than five feet from any side lot line.
 - (5) Every part of a required yard shall be open to the sky, unobstructed by a building, except for the ordinary projections of sills, belt courses, cornices, and ornamental features not exceeding 12 inches, or as otherwise excepted in paragraphs (1) through (4) above.
- (d) *Parking, storage or use of major recreational equipment and vehicles.* No major recreational equipment shall be parked or stored on any lot in a residential district, except in a carport or enclosed building, on a driveway, or in a required side or rear yard, except that such equipment may be parked anywhere on a residential premises not to exceed 24 hours during loading or unloading. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, except for the temporary housing of guests not to exceed two consecutive weeks. For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pickup campers, or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

(Ord. No. 953, 12-12-2005; Ord. No. O-2014-008, 3-24-2014)

Sec. 71-22. - Parking space regulations.

- (a) *Automobile parking space regulations.* Whenever any ordinance, regulation, or plan enacted or adopted by the city council is for the purpose of providing off-street automobile parking spaces or of establishing requirements that such spaces be provided within any section or sections of the city, then such plan or requirements shall govern within such sections. Otherwise off-street automobile parking spaces shall be provided as follows, applicable to buildings hereafter erected and uses hereafter established, to such nonconforming uses as may be required to conform to the regulations hereof, and to extensions and enlargements of buildings and uses.

- (1) Except as otherwise provided in the section, off-street parking spaces shall be provided as follows:

Use of Building or Site	Minimum Number of Parking Spaces Required
Residential	
Single-family	2.0 per dwelling unit
Two-family	2.0 per dwelling unit

Multi-family	2.5 per dwelling unit
Efficiency and one bedroom	1.5 per dwelling unit
Two or more bedrooms	2.0 per dwelling unit
Commercial	
Offices and banks	3.3 per 1,000 sq. ft. gross floor area
Clinics and doctors' offices	8.0 per 1,000 sq. ft. gross floor area
General retail	4.0 per 1,000 sq. ft. gross floor area
Shopping centers	5.5 per 1,000 sq. ft. gross floor area
Car wash	0.3 per employee, plus 1.0 for owner or manager, plus reservoir parking as provided below
Restaurants	0.3 per seat
Hotels, motels	1.25 per rentable room plus 0.5 per employee on any one shift
Halls for meeting, dancing, social events	5.0 per 1,000 sq. ft. gross floor area
Entertainment	
Bowling alleys	5.0 per 1,000 sq. ft. gross floor area
Pool halls	
Industrial	0.8 per employee on any one shift
Auditoriums and theaters:	0.3 per seat
Churches (sanctuary)	1.0 per four seats
Churches (additional space)	1.0 per 1,000 square feet

High schools	8.0 per 1,000 sq. ft. gross floor area plus 1.0 per staff member
Elementary and junior high schools	1.0 per staff members
Hospitals	1.2 per bed plus 1.0 per three staff members on any one shift
Nursing homes	1.0 per five beds plus 1.0 per two staff members on any one shift
Wholesale storage and jobbing	1.0 per employee, plus 1.0 per business vehicle parked on premises, plus 2.0 for visitor or customer parking.

Off-street reservoir parking shall be provided for an automatically operated car wash equal to three times the maximum capacity of the car wash, and for a manually operated car wash equal to six times the maximum capacity of the car wash, for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number of automobiles undergoing some phase of washing at the same time. The required yard setbacks for any building shall not be included in calculating the minimum space requirements for off-street parking.

- (2) Where a building or a site contains two or more uses, the off-street parking requirement shall be computed as the sum of the required off-street parking spaces for each individual use.
- (3) Each business, commercial, manufacturing or industrial use having deliveries made by truck more than once a day between the hours of 8:00 a.m. and 6:00 p.m., or where the time of loading and unloading materials or goods exceeds ten minutes between those hours, shall provide off-street truck loading space on the lot, such space to be not less than 35 feet in length, 12 feet in width, and 15 feet in height.
- (4) For the purpose of this subsection, one parking stall shall be not less than 175 square feet in area, together with whatever area is required for means of ingress and egress thereto, except that in the case where attendants perform the act of parking in defined and adequate stalls then each such stall shall be considered a parking stall as required herein.
- (5) A driveway for access to any single parking space or to a parking lot shall be not less than 11 feet in width nor more than 30 feet in width at the property line along the street and shall be so located as to minimize traffic hazard and congestion.
- (6) All required parking stalls shall be located on the premises to which such requirement applies or within an off-street space distance not more than 500 feet from such premises, provided that such stalls as are required for employees and proprietors of any premises may be located within an off-street space distance not more than 1,000 feet from such premises, except as otherwise provided in this subsection or other subsections of this chapter.
- (7) Provision of parking stalls shared jointly by several persons in the same block or in the same vicinity is permissible, in which case the number of stalls required shall be the sum total of the individual requirements, provided that, where it is found by the board of adjustments, upon application thereto, that the parking demand generated by the different uses included in any joint arrangement to provide parking stalls required herein occurs at distinctly different times, as in the case of a theater generating demand for parking during such daytime hours, and in

similar cases, the board of adjustments may reduce the total of number of parking stalls to be jointly provided.

- (8) All parking spaces required for any use and provided in compliance with the provisions of this subsection on the same lot or plot as that occupied by such use shall be considered to be required spaces for the use or uses to which appurtenant and shall not be reduced or encroached upon in any manner.
 - (9) The surface of parking stalls and aisles, truck standing spaces, and access driveways therefore shall be treated, prepared and maintained for adequate drainage and the elimination of dust, dirt, and mud, according to city specifications.
 - (10) In a case where existing off-street parking facilities have unused parking capacity, and where such facilities are open to the use of the public free of charge or at reasonable rates, the board of adjustments may reduce the parking space requirements for any use distance not more than 800 feet from such facility or facilities, provided that the total number of stalls in such reduction shall be not greater than the total number of stalls of unused capacity.
 - (11) In a case where any public or private off-street parking facility, to be open to the use of the public free of charge or at a reasonable rates, is planned or is in process of development, and where the board of adjustments has reasonable assurance that such development will be carried to completion and will, when completed, relieve the parking demand in an area within 500 feet thereof in some measure or in full measure, the board of adjustments may establish a reasonable time period within which any use or uses within such area shall provide required space for parking stalls. Upon completion of all or a portion of such development, the provision of paragraph (10) above may be applied by the board.
 - (12) In a case where the customary mode of transportation of a majority of the patrons, employees, and proprietors of any use, to and from the area in which such use is located, is other than by private automobile, the board may reduce by an amount not to exceed 50 percent the space required for parking stalls for such use.
 - (13) In a case where it is clearly shown by the applicant, to the satisfaction of the board, that the provision of the amount of space required herein for parking stalls, due to the particular nature of the proposed use or other condition, would be an unnecessary hardship, the board may reduce such requirement.
- (b) *Residential off-street parking.*
- (1) *Purpose.* It is recognized that uncontrolled residential off-street parking, specifically in residential front yards, is a public nuisance. The purpose of this subsection is to provide for the regulation of residential off-street parking and to specify the requirements for residential off-street parking as they pertain to the appearance and the health, safety, and welfare of the city.
 - (2) *Definitions and restrictions.* It shall be illegal for any person to park, or to allow to be parked on any property under his control, any bus, motor home, camper, trailer, or boat on any portion of a front yard or side yard of any area which is zoned R-1 under this chapter unless:
 - a. Said area is a part of a hard surfaced driveway or parking area;
 - b. Said area is a part of a gravel driveway bordered by cement curbing or similar permanent border;
 - c. Said area is a part of a required driveway that provides access to a garage, carport or off-street parking area required by this section;
 - d. Said area is part of a side yard which is enclosed by a screening fence at least six feet in height and so constructed that no person can see through into the area surrounded by the fence;
 - e. The term "vehicle" as used herein shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved exclusively by human power. The term "hard surfaced" as used herein shall

include cement, asphalt, brick and other commonly accepted pavement that may be approved by the building inspector;

- f. A single-width driveway running from the street access to a garage or other parking area shall not utilize more than 15 percent of any residential front yard, except for front yards with a front footage width of less than 70 feet, in which case the maximum width for a single driveway shall be 11 feet;
- g. A double-width driveway running from the street access to a garage or other parking area shall not utilize more than 27 percent of any residential front yard, provided that the maximum width of a driveway shall not exceed 24 feet in any case and shall not exceed 18 feet for front yards with a front footage width of less than 70 feet;
- h. A triple-width driveway running from the street to a garage or other parking area shall not utilize more than 33 percent of any residential front yard, provided that the maximum width of a driveway shall not exceed 30 feet in any case, and shall not be permitted for front yards with a front footage width of less than 80 feet;
- i. A drive apron means the connection between a driveway and the traveled portion of a street, in the public right-of-way, including any sidewalk area abutting thereon; or
- j. Circular driveways used for turnarounds or through traffic shall not utilize more than 30 percent of any residential front yards or corner side yards with a front footage or less than 80 feet.

(Ord. No. 953, 12-12-2005)

Sec. 71-23. - Nonconforming uses.

- (a) *Intent.* Within the districts established by this chapter, or amendments that may later be adopted, there exist lots and uses of lands, buildings and structures, uses of land and buildings in combination, and characteristics of use which were lawful before this chapter was passed and amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this chapter to permit these nonconformities to continue until they are removed. It is also the intent of this chapter to allow repairs to structures that are considered nonconforming uses, provided that the repairs only restore the structure to its previous condition. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.
- (b) *Nonconforming lots of record.* In any district in which residential, commercial, or industrial buildings are permitted, buildings may be erected on any single lot of record, or multiple lots of contiguous street frontage in the same ownership, which were recorded prior to the effective date of this chapter. This provision shall apply even such lot or lots fail to meet the minimum requirements for area, width, or both, as governed by section 71-20; however, all other provisions of section 71-20 shall apply. Any required variances shall be obtained only through the zoning board of adjustment.
 - (1) *Conformance when.* The lawful use of a building or land existing at the date of enactment of this chapter, although such does not conform to the provisions hereof, may be continued, but if nonconforming use is discontinued for a period of six consecutive calendar months, it shall not thereafter be resumed and any future use of such building or land shall be in conformity with the provisions hereof. The use of land, if changed from a nonconforming use, shall be in conformity with the provisions hereof.

- (2) *Board approved use conforms.* Any use that is permitted in a district only upon action of the board of adjustments shall, upon its establishment, be considered a conforming use in that district, provided that this regulation shall not be so interpreted as to waive any conditions of a conditional permit for such use.
- (c) *Manufactured homes.* A manufactured home located within the city limits and outside a manufactured home park on the date of adoption of this chapter may be replaced one time and one time only with a manufactured home. The replacement manufactured home must be installed within 180 days of the removal of the manufactured home, upon the same site location as the replaced manufactured home, and comply with all codes and regulations effective on the date of installation. In the case of fire or natural disaster resulting in irreparable damage to a manufactured home, a replacement manufactured home must be installed within 180 days following the fire or natural disaster, upon the same site location as the damaged manufactured home, and comply with all codes and regulations effective on the date of installation. Upon the removal or destruction of the replacement manufactured home, the aforementioned site location of the manufactured home shall no longer be considered eligible as a location for a manufactured home

(Ord. No. 953, 12-12-2005)

Sec. 71-24. - Planning and zoning commission.

- (a) *Organization of planning and zoning commission.* There is hereby created a planning and zoning commission. The commission shall be composed of five regular members, all of whom shall be residents and real property taxpayers of the City of La Marque, and none of whom shall hold any other position in the City government. Three members of the first commission shall be appointed for a term of two years and two for a term of one year, and service shall be without pay. Thereafter, new members shall be appointed for a term of two years. Any vacancy shall be immediately filled for the unexpired term. A chairperson shall be elected from among the appointed members to serve for a term of one year. The city council shall appoint two alternate members of the commission for a term of two years who shall serve in the absence of one or more of the regular members when requested to do so by the chairperson of the commission. The members of the commission shall be appointed solely with reference to their fitness and without reference to party affiliation, and shall serve without compensation. Members may be removed by the city council only for inefficiency, neglect of duty, or malfeasance in office. Three members, regular or alternate, shall constitute a quorum.
- (b) *Duties and powers.* The planning and zoning commission is hereby charged with the duty and invested with the authority to:
 - (1) Inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the state and of the city.
 - (2) Recommend to the city council approval or disapproval of proposed changes in the zoning plan.
 - (3) Formulate and recommend to the city council, for its adoption, a city plan for the orderly growth and development of the city and its environs and from time-to-time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.
 - (4) Formulate a zoning plan as may be deemed best to carry out the goals of the city plan; hold public hearings and make recommendations to the city council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in V.T.C.A. Local Government Code § 211.007. All powers granted under said section are specifically adopted and made a part hereof.
 - (5) Exercise all the powers of a commission as to approval or disapproval of plans, plats, or replats set out in V.T.C.A. Local Government Code § 212.006.

- (6) Study and recommend the location, extension and planning of public rights-of-ways, parks or other public places, and on the vacating or closing of same.
- (7) Study and recommend on the general design and location of public buildings, bridges, viaducts, street fixtures and other structures appurtenances. Study and recommend on the design or alteration and on the location or relocation of works of art that are, or may become, the property of the city.
- (8) Initiate in the name of the city, for consideration at public hearing, all proposals:
 - a. For the opening, vacating or closing of public rights-of-way, parks or other public places; or closing of public rights-of-way, parks or other public places;
 - b. For the change of zoning district boundaries on an area-wide basis.No fee shall be required for the filing of any such proposal in the name of the city.
- (9) Formulate and recommend to the city council for its adoption policies and regulations consistent with the adopted city plan governing the location and/or operation of utilities, public facilities, and services owned or under the control of the city.
- (10) Submit each May, a progress report to the city council summarizing its activities, major accomplishments for the past year, and a proposed work program for the coming year.

(Ord. No. 953, 12-12-2005; Ord. No. 957, § 1, 1-23-2006; Ord. No. O-2014-0023, 12-15-2014)

Sec. 71-25. - Board of adjustment.

- (a) *Organization of board of adjustment.* There is hereby created a board of adjustment, herein referred to as the board. In the absence of a board, the city council shall serve as the board. The board shall be organized, appointed, and function as follows:

The board shall consist of five members who are residents of the city, each to be appointed by the city council for a term of two years and removable for cause by the appointing authority upon written charges and after public hearing. The city council shall designate one member as chairman. Vacancies shall be filled for the unexpired term of any member, whose place becomes vacant for any cause, in the same manner as the original appointment was made. The city council may appoint two alternate members of the board who shall serve in the absence of one or more of the regular members when requested to do so by the chairman of the board or city secretary, as the case may be. All cases to be heard by the board will always be heard by a minimum of 75 percent of the number of regular members. These alternate members, when appointed, shall serve for the same period as the regular members, which are for a term of two years, and any vacancy shall be filled in the same manner, and they shall be subject to removal the same as the regular members.

Each position on the board shall be given a numerical designation with the designations beginning with the number 1 and ending with the number 5. The terms of the odd-numbered positions (places 1, 3, and 5) shall expire in odd-numbered years and the terms of even-numbered positions (places 2 and 4) shall expire in even-numbered years. Board members may be appointed to successive terms.

Each alternate position on the board shall be given a numerical designation with the designations beginning with the number 1 and ending with the number 2. The terms of the odd-numbered positions shall expire in odd-numbered years and the terms of even-numbered positions shall expire in even-numbered years. Board alternate members may be appointed to successive terms. Appointments of members and alternate members of the board shall be made at the first regular city council meeting in the month of June of each year. Newly appointed members and alternate members shall be installed at the first regular board meeting after their appointment. If there is a sitting board, they shall continue to serve.

- (b) *Operational procedure.*

- (1) The board shall adopt rules to govern its proceedings provided; however, those rules are not inconsistent with this chapter or state law. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oath and compel the attendance of witnesses.
 - (2) 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, and shall keep record 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.
 - (3) Appeals to the board can be taken by any person aggrieved or by an officer, department, or board of the municipality affected by any decision of the administrative official. Such appeal shall be taken within 15 days after the decision has been rendered by the administrative official by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the records upon which the action appealed from was taken.
 - (4) An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board, after the notice of appeal shall have been filed with the officer, that, by reasons 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 or a court of record on application or notice to the officer from whom the appeal is taken and on whom due cause shown.
 - (5) No appeal to the board for the same or related variance on the same piece of property shall be allowed prior to the expiration of six months from a previous ruling of the board on any appeal to such body unless other property in the immediate vicinity has, within the said six months period, been changed or acted on by the board or city council so as to alter the facts and conditions on which the previous board action was based. Such change of circumstances shall permit the re-hearing of an appeal by the board prior to the expiration of six months period, but such conditions shall in no wise have any force in law to compel the board, after a hearing, to grant a subsequent appeal. Such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.
 - (6) At a public hearing relative to any appeal, any interested party may appear in person, or by agent, or by attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the board on any appeal. Any special exception or variance granted or authorized by the board, under the provisions of this chapter, shall authorize the issuance of a building permit or a certificate of occupancy, as the case may be, for a period of 90 days from the date of the favorable action of the board, unless said board shall have, in its action, approved a longer period of time and has so shown such specific longer period in the minutes of its action. If the building permit and/or certificate of occupancy shall not have been applied for within said 90 day period, or such extended period as the board may have specifically granted, then the special exception or variance shall be deemed to have been waived and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal, and such subsequent appeal shall be subject to the same regulation and requirement for hearing as herein specified for the original appeal.
- (c) *Actions of the board of adjustment.*
- (1) In exercising its powers, the board may, in conformity with the provisions of the state statutes as existing or hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken. The board shall have the power to impose reasonable conditions to be complied with by the applicant.
 - (2) The concurring vote of 75 percent of the number of regular members of the board shall be necessary to reverse any order, requirement, 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 chapter or to effect any variance in this chapter.

- (3) Any person or persons jointly or severally aggrieved by any decision of the board, or any taxpayer, or any officer, department, or board of the municipality may present to a court of record (district court) a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board and not thereafter.
- (d) *Notice of hearing before board of adjustment required.* The board shall hold a public hearing on all appeals made to it, and written notice of such public hearings shall be sent to the applicant and all other persons who are owners of real property lying within 200 feet of the property on which the appeal is made. Measurements shall be taken inclusive of public streets. Such notice shall be given no less than ten days before the date set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the United States Post Office. Notice shall also be given by publishing the same in the official publication of the city at least ten days prior to the date set for hearing, which notice shall state the time and place of such hearing.
- (e) *Jurisdiction of board of adjustment.* When, in its judgment, the public convenience and welfare will be substantially served, and the appropriate use of the neighboring property will not be substantially or permanently injured, the board may, in specific cases, after public notice and public hearing, and subject to appropriate conditions and safeguards, authorize the following special variances and exceptions to the regulations herein established, and take action, relative to the continuance and discontinuance of a nonconforming use:
 - (1) Consider applications for conditional uses as set forth in section 71-6;
 - (2) To hear and decide appeals where it is alleged there is error on any order, requirement, decision, or determination made by the administrative official in the enforcement of this chapter;
 - (3) Interpret the intent of the zoning district map where uncertainty exists because the physical features on the ground vary from those on the zoning district map and none of the rules set forth in section 71-5 apply;
 - (4) Initiate, on its motion or cause presented by interested property owners, action to bring about the discontinuance of a nonconforming use;
 - (5) Require the discontinuance of a nonconforming use under any plan, whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this chapter;
 - (6) Permit the change of occupancy of a nonconforming use to another nonconforming use in accordance with the provisions of section 71-23;
 - (7) Permit the enlargement of a nonconforming use in accordance with the provisions of section 71-23;
 - (8) Permit the reconstruction of a nonconforming structure or building on the lot or tract occupied by such building, provided such reconstruction does not, in the judgment of the board, prevent the return of such property to a conforming use or increase the nonconformity of a nonconforming structure, and provided that such actions conform to the provisions of section 71-23;
 - (9) Require the vacation and demolition of a nonconforming structure that is deemed to be obsolete, dilapidated, or substandard;
 - (10) Permit such variance of the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum setback standards, off-street parking, off-street loading regulations, lot area, maximum height, building size or percent of masonry required, where the literal enforcement of the provisions of this chapter would result in an unnecessary hardship, or where such variance is

necessary to permit a specific parcel of land, which differs from other parcels of land in the same district by being of such area, shape or slope, that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district.

(Ord. No. 953, 12-12-2005)

Sec. 71-26. - Amendments.

- (a) *General.* The zoning regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified or repealed. Such amendments, supplements, changes, modification, or repeal shall be deemed to amend, supplement, change, modify, or repeal the comprehensive plan of the city and shall become a part of such comprehensive plan. The planning and zoning commission and its composition and duties are established by the city council.
- (b) *Amendment initiation.* An amendment to this chapter may be initiated by:
 - (1) City council on its own motion;
 - (2) Planning and zoning commission; or
 - (3) Request by owner or agent of owner of property to be changed.
- (c) *Procedure.* All requests for amendments to zoning district boundaries shall be submitted, together with required fees, to the administrative official, which officer shall cause notices to be sent and the petition placed on the planning and zoning commission agenda.

The city council may not enact any proposed amendment until the planning and zoning commission makes its final report to the city council. The city council may refer proposed amendments to the planning and zoning commission for recommendation. Requests for changes in zoning districts shall include the proposed designation or designations for the area concerned. Alternative proposals may be made at the time of filing the original request for amendment; however, all hearings and deliberations shall be limited to the request as submitted by the applicant at the time of original filing.

- (d) *Public hearing and notice.* Prior to making its report to the city council, the planning and zoning commission shall hold at least one public hearing thereon. Written notice of all public hearings on proposed changes in district boundaries shall be sent not less than ten days before such hearing is held to all owners of property which is located within the area proposed to be changed, within 200 feet of such property or within 200 feet of any other adjacent property under the same ownership as the tract to be rezoned. Measurements shall be taken inclusive of public streets. Such notice may be served by using the last known address as listed on the city tax roll and depositing the notice, postage paid, in the United States mail. No notice of hearings before the planning and zoning commission on proposed changes in zoning regulations need be given except as may be required by state law.
- (e) *Commission report.* The planning and zoning commission, after the public hearing is closed, shall vote on its recommendations on the proposed change to be sent in a report to the city council. Such report may recommend for or against such proposed change and may but need not include reasons for such decision. The commission may defer its report for not more than 60 days until it has had opportunity to consider other proposed changes that may have a direct bearing thereon. If the commission fails to finally report after 60 days, it would be deemed to have approved the proposal.
- (f) *Forwarding final report.* Every proposal, receiving a final report by the commission, shall be forwarded to the council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
- (g) *Withdrawal.* Any proposal or application may be withdrawn by the proponent after the commission makes its final report, and such proposal or application shall not be subject to the provision hereof that a period of time must pass before a new application is considered. If such proposal is withdrawn,

the council will not consider it. Any proposal or application withdrawn may be resubmitted and shall be subject to all fees and notice requirements as an original application.

- (h) *Council hearings and notice.* The city may from time to time, amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established. A public hearing on such amendment, supplemental, or change shall be held by the council. Notice of council hearing shall be given by publication one time in the official newspaper of the city, stating the time and place of such hearing, which time shall not be earlier than ten days from the date of publication. No such amendment, supplement, or change shall be considered unless and until the commission makes its final report thereon. Publication of such change shall be accomplished by publishing the descriptive caption and penalty clause of the ordinance amending the comprehensive plan to incorporate the change.
- (i) *Application not to be considered for another six months after denial of request for rezoning.* No application for rezoning shall be considered within six months of denial of a request by the city council for the same classification on the same property.
- (j) *Protest against change.* In case of a protest against such change, signed by the owners of 20 percent or more either of the land included in such proposed change, or of the land within 200 feet thereof, including any intervening public street, such amendment shall not become effective except by the favorable vote of three-quarters of all the members of the city council.
- (k) *Council action on application.* The proponent of any zone change shall satisfy the city council that either the general welfare of the city affected by the area to be changed will be enhanced, or that the property is unusable for the purposes allowed under existing zoning. If such is proved to the council's satisfaction, it may grant the requested zone change; or it may change the zone's designation of a portion of such property; or it may initiate a request to consider changing all or a portion of such property to a district other than that requested and of a different character.
- (l) *Site plan and supporting documents required; petition for zoning district change or conditional use.* When in the opinion of the planning and zoning commission, city council, or zoning board of adjustment that greater information is required from the petitioner concerning the nature, extent, and impact of his request than supplied with his application for a change in zoning or conditional use permit, in order for such commission, council, or board to properly review and evaluate all relevant factors thereof, said commission, council, or board may require the applicant to submit a site plan and supporting documents conforming with all or a portion of the requirements set forth in this subsection, prior to rendering a decision thereon.

The petitioner is encouraged to meet with the appropriate commission, council, or board in an informal work session to ascertain the exact extent of plans and documents required, if any, prior to the city initiating the advertisement for public hearing on the petition.

The general type and extent of plans and supporting documents that may be required of the petitioner include, but are not necessarily limited to:

- (1) *Site plan.* Meeting all of the requirements of a "preliminary plat", as described in the city's subdivision regulations, except that topographic and drainage map information provisions may be waived by the reviewing body when the inclusion of such data would not materially contribute to the necessary evaluation of the project's petition. Additional site plan drawing information which the reviewing body may require includes:
 - a. Existing and proposed zoning district;
 - b. General outline of extensive tree cover areas;
 - c. Drainage ways and 100-year flood plain limits;
 - d. Proposed treatment for screening the perimeter of the land embraced by the petition, including screening of internal separations of land use where required;

- e. Proposed internal, nonvehicular circulation linkages, such as, pedestrian paths and hike trails, bike trails, and equestrian bridle paths, where applicable, including their interrelationships with vehicular circulation systems and proposed handling of points of conflict;
 - f. A tabular summary schedule indicating:
 - 1. The gross acreage and percent of each type of zoning category proposed;
 - 2. The gross acreage and percent of each type of land use proposed, with streets and open space categories listed separately, and residential uses further stratified as to type, i.e., single-family, two-family, multi-family townhouse, etc., including the total gross project acreage;
 - 3. The gross residential density of each type of residential land use proposed, expressed in dwelling units per acre; and based on net residential land use plus one-half of any abutting street;
 - 4. The quantitative number of dwelling units proposed for each residential dwelling type (i.e., single-family, two-family, etc.);
 - 5. Proposed maximum lot coverage by building types (i.e., 1/F, 2/F, M/F, commercial, office, industrial, etc.) expressed in terms of percent or floor area ratio of the lot or site.
- (2) *Architectural drawings.* Elevations, concept sketches, or renderings depicting building types and other significant proposed improvements including the treatment and use of open spaces, etc., where the submission of such drawings would more clearly portray the nature and character of the applicant's land use and development proposals.
- (3) *Written documents.* In narrative form on 8½ times 11 sheets, including:
- a. Statement(s) on planning objectives to be achieved in use/development proposal, including a narrative description of the character of the proposed development and rationale behind the assumptions and choices made by the applicant, including use and ownership of open spaces, etc;
 - b. Legal description of the total site area proposed for rezoning, development, or conditional use permit;
 - c. A development schedule indicating the approximate dates(s) when construction of the proposed development, and subsequent stages or phases thereof, if any, can be expected to begin and be completed, to the best of the applicant's knowledge and belief;
 - d. A statement as to the present and proposed ownership of the site or parcels thereof embraced by the application;
 - e. Economic feasibility and/or market analysis studies, when deemed necessary by the reviewing body to adequately assess the necessity for zoning certain parcels to the sizes indicated by the applicant, or to evaluate the need for granting a conditional use permit;
 - f. Environmental assessment statement, prepared pursuant to the National Environmental Policy Act of 1969, and any subsequent amendments thereto, when deemed necessary by the reviewing body to properly assess the impact of the proposed development/land use on the existing environment;
 - g. Statement(s) as to how and when the applicant proposes to provide water and sewer to the development; and
 - h. Signature, title, and date of the applicant, at the conclusion of the written documents certifying the information presented in the plans and supporting documents reflecting a reasonably accurate portrayal of the general nature and character of the proposals.

(Ord. No. 953, 12-12-2005; Ord. No. 965, § 2, 9-11-2006)

Sec. 71-27. - Thoroughfare overlay district.

- (a) *Creation* . There is hereby created a Thoroughfare Overlay District (TOD) in all portions ions of properties adjacent and within 300 feet of the following thoroughfares:
- (1) I-45 from the North city limit line to the South city limit line.
 - (2) FM 1765 from Highway 146 to FM 2004.
 - (3) FM 1764 from 1-45 to the West city limit line.
- (b) *Intent and purpose*. The TOD will supersede the regulations of the underlying zoning regulations where such zones are in conflict with the TOD.
- (c) *Principal and accessory uses*. No land shall be used and no structure shall be erected for, converted to or used for any principle or accessory use other than such uses that are allowed in the underlying zone.
- (d) *Screening requirements*.
- (1) Screening walls applicable to the separation of land uses, screening of satellite dishes, trash receptacles and other items shall be provided in accordance with the requirements of the underlying zoning district, except as otherwise provided herein.
 - (2) Outside storage shall be screened on all sides by a solid opaque brick or stone wall of not less than six feet in height measured from the highest finished grade, constructed in accordance with general design standards of the city.
 - (3) Trash receptacle shall be visually screened on three sides by a solid, opaque brick or stone wall not less than six feet in height, measured at the highest finished grade. The height of the trash receptacle shall not exceed the height of the screening. Screening shall not be required on the side used for access by garbage collection services. Such side shall not face less than 45 degrees from any adjacent street. Trash receptacles already enclosed by a solid, opaque brick or stone wall of at least six feet in height measured at the highest finished grade shall not be required to provide additional screening.
 - (4) Any fencing in the "TOD" required or otherwise shall be a solid, brick or stone wall or wrought iron wall of not less than six feet in height, measured at the highest finished grade.
 - (5) *Rooftop screening* : Roof mounted equipment including but not limited to, storage tanks, compressor units, satellite dishes, vent stacks greater than four inches in diameter, and elevator machinery, shall be integrated into the building design and screened from view from the adjacent streets and public facilities. Rooftop screening shall use building materials similar to the facade of the building to which such items are located, to create a smooth, clean, integrated appearance. For purposes of this section, a highway or interstate frontage road shall be designated as an adjacent street. Any existing building or structure which becomes diminished 50 percent or more in assessed value due to fire, storms or other calamity shall, if rebuilt or repaired, be done so in compliance with this section.
- (e) *Miscellaneous requirements* .
- (1) All areas used for outside display or storage in conjunction with sales or rental of motor vehicles, manufactured homes, trailers or boats, regardless of whether such areas are screened from public view, shall have a concrete surface, constructed in accordance with the standards prescribed by the city.
 - (2) *Utilities* : All utilities within 200 feet of the property line, which will serve parcel, shall be installed underground, except for any transmission line or feeder lines, either existing or proposed; provided that, such transmission or feeder lines shall be located within a designated paved easement or alleyway provided by the property owner.

- (3) Nothing set forth herein shall prohibit or restrict any utility company from recovering the difference between the cost of overhead facilities and underground facilities. Each utility whose facilities are subject to the provisions of this section shall develop policies and cost reimbursement procedures with respect to the installation and extension of underground service.
- (4) All new construction within the "TOD" shall meet the district standards.
- (5) Any renovation of an existing building or structure which adds 50 percent or more assessed value to such building or structure as determined by the building official shall be in compliance with this section. Any reconstruction or repair of an existing building or structure which has been damaged by 50 percent or more of its assessed value as determined by the building official shall be in compliance with this section.
- (6) Landscaping shall cover a minimum of 15 percent of the of the total land area of any property.
- (7) *Masonry content* : Structures regardless of structure height, shall meet the following masonry requirements: 100 percent of the total exterior walls, front and side walls, which may be seen from any public thoroughfare, excluding doors, windows and window walls, shall be constructed of brick, stone, masonry or precast concrete panels.
- (8) *Area, setback, and height regulations* : To provide adequate protection of the aesthetic and visual character of the thoroughfares, a minimum setback of 40 feet of all buildings, accessory buildings and structures from the property line which is adjacent to a public thoroughfare shall be required. The minimum setback requirement shall be reduced to a setback of 25 feet if parking is prohibited within said setback area.

Maximum Height	No requirement
Maximum lot coverage	65% by structures
Maximum lot coverage	85% by structures, driveways, and parking
Minimum distance	15 feet between detached structures
Minimum front yard	40 feet
Minimum lot area	10,000 square feet
Minimum lot width	80 feet
Minimum lot depth	80 feet
Minimum rear yard	25 feet or equal to the height of the building facing the rear yard, whichever is greater
Minimum side yard	25 feet or equal to the height of the building facing the side yard, whichever is

	greater
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(Ord. No. O-2015-0027, § 1, 11-9-2015)

Sec. 71-28. - Outdoor advertising sign regulation.

(a) *Purpose* . The purpose of these sign regulations is to encourage the effective use of signs as a means of communication in the city; to maintain and enhance the aesthetic environment and La Marque's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions. This section is adopted under the zoning authority of La Marque in furtherance of the more general purposes set forth in this section. This section is adopted in accordance with V.T.C.A. Local Government Code tit. 7, ch. 216. This Section is specifically aimed at achieving the goals, objectives, and public policies enumerated in the city's zoning ordinance.

(b) *Definitions* .

Abandoned sign: A sign which no longer identifies or advertises a bona fide business, owner, lessor, lessee, service, product, or activity, or for which no legal owner can be found, or if found, disclaims any interest in the sign.

Automatically changeable advertising: Signs with text lines that can be changed using electronic means, signs with electronic reader boards using LED lights are not considered digital signs.

Billboard: A large outdoor advertising structure with any sign face greater than 100 square feet, typically found in high traffic areas such as alongside busy roads advertising goods or services not necessarily sold where the sign is located.

Business directory sign: An outdoor sign used solely for the purpose of identifying the building name, address, number, primary business or activity conducted on the immediate premises. When a facility contains two or more tenants, a director sign may also identify individual tenants.

Construction sign: A sign stating the name of the architect, engineer, financing company, owner, construction company and a brief description of the project.

Digital sign: Plasma display panels (PDPs), liquid crystal displays (LCDs), light emitting diode signs (LEDs), or traditional television (CRTs) being used like signage. Instead of tuning in to a television station, they are showing specially prepared dynamic visual images to make them function like signs.

Display surface (sign): The surface made available for the direct mounting or application of letters, graphics and decoration including the mounting and framework surrounding said surface. The supporting standards are not a part of the display surface.

Indirect lighting: A light source separated from the surface and illuminating the sign surface by means of spot lights or similar fixtures.

Portable sign: A sign mounted on wheels, skids, or legs intended to be moved from location to location and used as a short-term temporary advertising device. Limited to two sign faces with a maximum area of 32 square feet per sign face.

Reflective surface: Any material or device which has the effect of intensifying reflected light, including but not limited to scorch light, lamp glow, glass beads and luminous paint.

Sign: Any outdoor display, pictorial or other representation that shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same shall be used for advertising.

Sign face: That portion of the surface of a sign structure where words, letters, figures, symbols, logos, fixtures, colors, or other design elements are or may be located in order to convey the message, idea, or intent for which the sign has been erected or placed. The sign face may be composed of two or more modules on the same surface that are separated or surrounded by open space or by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature.

Sign module: Each portion or unit of a sign face that is clearly separable from other such units by virtue of the expression of a complete thought, message, logo, or idea.

Sign size: The area of the display area expressed in square feet.

Sign structure: The supports, uprights, bracing and structural framework of any outdoor advertising sign.

Signs, off-premises: Any outdoor advertising sign which directs attention to a person, business, commodity, industry or other activity which is sold, offered or conducted elsewhere than on the premises on which the sign is located, or which directs persons to any location not on the premises, or which is sold, offered or conducted on such premises only incidentally, if at all. The term shall include all structures of whatever material which are erected, maintained and established for public display of posters, printed signs, pictures or other pictorial or reading matter.

Signs, on-premises: Any outdoor advertising sign which directs attention to a person, business, commodity, service, entertainment, industry or activity which is sold, offered or conducted, other than incidentally, on the premises upon which the sign is located.

Signs, on-premises real estate: Signs advertising a parcel of land or building for sale or lease and affixed to the subject building or land.

Signs, outdoor advertising: Any arrangement of letters, figures, symbols or other devices used for advertising, announcements, direction or declaration intended to attract or inform the public, whether such signs are affixed to a building or structure or free standing, whether anchored or not anchored to foundations, paving or other structures, and outside the weather surface of any enclosed building.

Signs, permanent: All signs greater than six square feet per face in area, including on-premises real estate signs greater than six square feet shall be categorized as permanent signs regardless of their physical characteristics or original intended purpose and shall conform to all provisions controlling permanent signs.

Signs, temporary: Signs falling in, but not limited to, the following categories shall be interpreted as temporary signs: Those advertising community events, grand openings, garage sales, of any size and when constructed of fabric or flexible plastic film; banners and flags; any sign, six square feet or less in area, intended to be easily removable or intended to be erected at successive locations; and on-premises real estate signs six square feet or less per face in area (intended to sell, lease or rent the property to which such real estate sign is affixed).

(c) *Other laws and ordinances .* Scope of regulations and regulatory bodies: Signs under this section shall conform to the provisions of the International Building Code, the laws of Texas, and such other ordinances of the city as may apply. These provisions shall govern signs and display structures with respect to location, safety, size, design, construction, erection, attachment, alteration, repair, support, anchorage and maintenance. The building official shall have and is given jurisdiction over the erection, construction, location, relocation and structural maintenance of all outdoor advertising signs within the city limits of the city.

(d) *General restrictions .* The following general restrictions shall apply to all signs:

(1) *Obstruction by signs :* No person shall erect, construct, suspend or maintain any sign across, over or above any public right-of-way, sidewalk or any portion thereof except banners for public

events when approved by the chief of police or his designee. No sign shall be erected, constructed or maintained in any manner that obstructs a means of egress, any opening necessary for required light or ventilation, or any access required for fire fighting. No sign shall be erected in a manner that obstructs the safe flow of pedestrian or vehicular traffic. No sign shall be constructed on any exterior yard so as to constitute a hazardous visual obstruction to traffic in any direction.

- (2) *Vehicular signs* : No sign shall be displayed on or attached to any vehicle that requires a state inspection sticker other than for immediate transfer from or to a permitted location. This subsection shall not be construed as prohibiting the customary commercial or industrial logo, location, phone numbers, identification numbers and slogan carried on the sides of a commercial vehicle and intended for identification. Any vehicle displaying advertising and parked off-premises of the business so advertised, that does not carry a valid state inspection sticker or a valid license and is parked in such a manner as to be conspicuous to the motoring public shall be considered an off-premises sign for the purposes of this section.
- (3) *Spectacular signs* : The following restrictions apply to spectacular signs:
 - a. Signs with flashing, glaring, strobe, chasing, rotating or blinking lights shall be prohibited.
 - b. Signs which interfere with the safe operation of motor vehicles by the nature of their design or the manner of their operation are prohibited.
 - c. Automatically changeable advertising shall be limited to no more than one message every eight seconds.
 - d. Signs which alternately display time and temperature shall conform to standard industry design for such signs. The message shall not change in less than a ten-second interval.
 - e. Digital signs, with display areas of less than 100 square feet, shall not change message in less than a five-minute interval.
 - f. All spectacular signs shall be placed parallel to the roadway with a deviation of not greater than 20 degrees with the exception of:
 1. Automatically changeable advertising,
 2. Signs which alternatively display time and temperature.
- (4) *Signs confusingly similar to traffic-controlled devices* : No sign confusingly similar to a traffic control sign or device shall be placed in the view of any street or thoroughfare. The words "stop," "danger," "yield" and similar words, phrases and symbols that may interfere with, mislead or confuse vehicular traffic are also prohibited.
- (5) *Sign illumination* : Only internal, direct, indirect, diffuse or neon lighting shall be permitted.
- (6) *Exemption from building setback restriction* : Signs permitted under this section shall be exempted from the setback restrictions imposed by the zoning ordinances.
- (7) *Signs prohibited on easements and rights-of-way* : No signs shall be placed on or over any public right-of-way, water, sewer or drainage easements except signs erected by the Texas Highway Department, Galveston County, the City of La Marque and signs identifying underground pipeline structures. No signs in this category shall be allowed to maintain a pre-existing nonconforming status.
- (8) *Signs prohibited on public property* : No signs shall be placed, posted or displayed or otherwise attached upon any street lamp post, street sign, traffic sign or signal, hydrant, tree, shrub, fence or utility pole.
- (9) *Re-inspection* : Signs shall be subjected to a re-inspection. The sign face shall be kept in good repair. If portions of the sign face or structure are incomplete or missing, and upon notice to the permit holder, the sign face is not repaired within a period of 30 days or if a structural defect exists and is not repaired within 15 days from notice, the sign shall be considered to be an abandoned sign.

- (10) *Emergency abandonment* : When a sign has been found to have structural design flaws or to have structural defects constituting a clear and immediate threat to the public or to adjacent property owners, the code enforcement officer shall take action to secure or dismantle the threatening sign at city expense and to charge the owner such cost. A first lien can be secured against the property owner for nonpayment.
- (11) *Temporary sign removal* : Temporary signs shall be removed within 24 hours after the event advertised,
- (12) *Sign lettering* : Professional even lettering with clearly legible font styles is required on all permanent or temporary signs within the city.
- (13) *Sign design and color* : The design of all signs shall be unobtrusive and of a design, material and color that blend harmoniously with the natural surroundings, and the scale of neighboring architecture.

Predominant color design shall be compatible and traditional historic colors, earth tones (greens, tans, light browns and terracotta), grays, pale primary and secondary colors, white and cream tones. Accent color design (i.e., black, dark blue, grays and other primary colors) may be used on a limited basis.

- (e) *Categorizing of all signs* . The building official shall categorize all signs into either on-premises or off-premises sign categories. Once so categorized, the sign thereafter shall be judged according to the applicable limitations as set forth hereafter.

- (f) *On-premises* .

- (1) *Permanent on-premises signs* : All signs in this category with a combined sign structure and display area over 32 square feet shall be anchored against up-lift and overturning resulting from winds of not less than 120 miles per hour. Such signs of this size shall also have construction plans designed and certified by a qualified engineer. Sign standards shall be in conformance with restrictions set out elsewhere in this section.

- (2) *Temporary on-premises signs* : The following restrictions are placed on temporary signs:

- a. Temporary signs shall be secured against dislodgment by wind.
- b. Temporary signs, including portable signs, shall be removed after the event they advertise has passed or 30 days, whichever is the lesser.
- c. Temporary signs shall be removed when faded or otherwise deteriorated.
- d. Only one construction sign is permitted per general construction permit. Construction signs shall be considered on-premises signs when placed on the construction site.
- e. Temporary signs shall not be erected on public property and equipment, rights-of-way, utility poles and equipment, traffic control signs, and on other property of the foregoing nature.
- f. Portable signs shall not exceed 32 square feet per sign face with a limit of two sign faces.

- (3) *Political signs* : A political sign is a sign that contains a primarily political message. Such signs are allowed subject to the following regulations:

- a. Political signs may be placed only on private property and only with the property owner's permission.
 1. All written political signs meant to be seen from a road must carry a "right-of-way" notice as prescribed by V.T.C.A. Election Code § 255.007:
"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE) TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."

- b. Political signs shall not exceed eight feet in height.
- c. Political signs shall not have an effective area greater than 36 square feet.
- d. Political signs cannot be artificially illuminated.
- e. Political signs shall not have any moving elements.
- f. No permit is required to place a political sign on private property.
- g. Signs placed on public property or the public right-of-way are subject to immediate removal.

(g) *Off-premises* .

- (1) *Permanent off-premises signs* : Effective on the date of passage of this article, no new permanent off-premises signs shall be erected or re-erected within the city limits of the city except as provided for in this article or as installed by the city. This provision does not prohibit the ordinary maintenance or the conversion to digital billboards, to such previously erected signs, but such signs shall otherwise not be improved nor enlarged. Excluding digital billboards, if a sign is 50 percent or more destroyed, as determined by the building official, it shall be removed by the owner and not re-erected.
- (2) *Temporary off-premises signs* : No temporary off-premises signs shall be erected within the city.
- (3) *Billboards* : All billboard signs are prohibited. This provision does not prohibit the ordinary maintenance of such previously erected signs during the amortization schedule for removal, but such signs shall not be improved nor enlarged. Excluding billboard signs constructed or reconstructed in conformance with this section and through a Digital Billboard Conversion Agreement, if a billboard sign is 50 percent or more destroyed, as determined by the building official, it shall be removed by the owner and not re-erected.
 - a. Notwithstanding any other provision of this article, an existing off-premises billboard may be converted to a digital billboard sign subject to the provisions of this section. Only a billboard sign constructed or reconstructed in conformance with this section and a Digital Billboard Conversion Agreement will be considered a conforming sign and all requirements of this section are met.

Digital billboard means an off-premises sign utilizing digital message technology, capable of changing the static message or copy on the sign electronically. A digital billboard may be internally or externally illuminated. Digital billboards shall contain static messages only, and shall not have animation, movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign. Each static message shall not include blinking, flashing, scintillating lighting or the varying of light intensity.

Digital Billboard Conversion Agreement : An existing traditional face off-premises billboard sign may be modified to support an electronic face(s) as a digital billboard if the owner presents the city manager with pictorial proof and a sworn affidavit evidencing the removal of at least two square feet of traditional face from within the city for every one square foot of digital face display area to be erected. (Example: for a 576 square feet digital face, an owner would have to remove at least 1,152 square feet of existing traditional sign face area.) The removal of the face of which the digital face will replace does not count toward the removal total. Prior to issuance of a building permit the city manager or their designee must approve a Digital Billboard Conversion Agreement which outlines which static billboards are being removed and the location and the dimensions of the digital billboards being constructed.

The owner of an existing off-premises billboard sign may replace any or all the structural components necessary to support a digital face(s). The sign structure that is modified or replaced:

- 1. Shall not increase the number of physical faces on the structure.

2. Shall not have a digital face with an active copy area that exceeds 580 square feet or has an active copy area greater than the original sign face.
3. Shall obtain all necessary electrical permits from the city.
4. Must comply with all state regulations, if there is any conflict between state and city regulations, the more restrictive shall apply.

The owner of an off-premises digital sign(s) shall coordinate with local authorities to display, when appropriate, emergency information important to the traveling public such as Amber Alerts, alerts concerning terrorist attacks, natural disasters or as authorized by the office of emergency management. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues the information. The owner of an off-premises digital sign(s) shall also coordinate with the city to display community information for 0.005 percent of the annual display time. At least 50 percent of the Community information will be displayed during peak times.

b. *Digital billboard requirements:*

1. *Maximum display area* : Five hundred eighty square feet, or the active copy area shall not be greater than the original sign face.
2. *Maximum height* : Thirty-five feet.
3. *Location* : Must maintain a 1,000-foot separation from other billboards, as measured along the same side of the road the sign is designed to be visible from and setback a minimum of 500 feet from a platted residential area, at the time the digital billboard is permitted.
4. *dwelt time* : Messages shall remain static for at least eight seconds and change message shall be accomplished within two seconds.
5. *Display* : No display shall include animation, full motion video, dissolving or fading images, moving light, scrolling images or text, nor shall it project a static image upon a stationary object.
6. *Change of message* : Must occur simultaneously on the entire sign.
7. *Brightness* : Limited to 0.3 foot candles over ambient light conditions measured at a distance of 150 feet from the sign for a nominal size 12-foot by 25-foot sign face.
8. *Malfunction* : Sign shall contain a default mechanism built in to either turn off the display or show "full black" or company logo only on the display if a malfunction occurs.
9. *Automatic dimmer* : Sign face shall be equipped with both a dimmer control and photocell that automatically adjusts the face's intensity according to natural ambient light conditions.
10. *Windstorm requirement* : All signs in this category shall be certified by a qualified engineer as anchored against up-lift and overturning resulting from winds of not less than 120 miles per hour.

(h) *Sign permits .*

- (1) *General permit requirements* : Any person desiring to erect or alter any regulated sign within the city shall make application for a permit to the building official of the city. The application fee is due at the time of the permit application is submitted.
- (2) Applications shall be in writing and the initial application shall be accompanied by a sketch of the sign to be erected showing dimensions and structural details and a description of the property upon which the sign is to be located, together with a statement and plot plan describing the location of the sign upon said property, in addition to all existing signs maintained on the premises and visible from the right-of-way.

- (3) The written consent of the property owner where the sign is to be erected shall also be submitted to the building official.
 - (4) All signs erected before the enabling of this section which do not meet the regulations herein contained, shall be registered with the city as pre-existing, nonconforming signs. It is the intent of this section to permit such nonconforming signs to continue until the same are removed, but not to encourage their survival.
 - (5) Sign permit fees shall be established by separate council resolution.
- (i) *Nonconforming and abandoned signs* .
- (1) *Enlargement prohibited* : Except as herein provided, no nonconforming sign shall be enlarged, changed, altered, or repaired except in conformity with the regulations contained in this article.
 - (2) *Nonconformance status* : Any sign which does not conform to the regulations contained in the zoning district in which it is located is deemed to be a legal nonconforming sign when:
 - a. The sign was in existence and lawfully operating at the time of the passage of this article, and has since been in regular and continuous use; or
 - b. The sign was in existence at the time of annexation to the city and has since been in regular and continuous use.
 - (3) *Continuing lawful use of sign* :
 - a. The lawful use of a sign existing at the time of the passage of this section, although it does not conform to the provisions herein, may be continued until termination is required in accordance with the provisions of this article. During the period between designation as a nonconforming sign and notification of a prescribed termination date, if discontinuance occurs, any future sign must be in conformity with the general provisions of this article.
 - b. A legal nonconforming sign, when discontinued or abandoned, cannot be resumed. Prima facie evidence of continuance or abandonment is as follows:
 1. When land associated with a legal nonconforming sign ceases to be used in such described by the sign a manner for a period of 90 days.
 2. When a business housed in a structure associated with a nonconforming sign ceases to be used in such a manner described by the sign for a period of 90 days.
 - c. Abandonment of a nonconforming sign shall be determined by the code enforcement officer.
 - (4) *Removal of abandoned signs* : Abandoned signs shall be removed at the discretion of the city manager and/or his or her designee. If not removed by owners or occupants of the property within ten days of notice, the city manager and/or his or her designee shall cause the signs to be otherwise removed and the cost of removal shall become a lien against the property until satisfied.
 - (5) *Proof of legal nonconformance* : It shall be the responsibility of the owner, operator, or occupant to provide proof that a nonconforming sign existed prior to the enactment of this article.
 - (6) *Restoration of damaged sign* : Nothing in this article shall prevent the restoration of a sign destroyed to the extent of not more than 50 percent of its reasonable value by fire, explosion, or other casualty or Act of God, or a public enemy, nor the continued use of such a sign which existed at the time of such destruction. However, the preceding allowance for the restoration of damaged nonconforming sign has no bearing on an approved amortization schedule for the termination of nonconformance as described in this article.
 - (7) *Survey and certification* : The code enforcement officer is responsible for the production of an annual survey and report on the status of signs in nonconformance in La Marque. The officer's report shall be sent to the planning and zoning commission at its first regular meeting of the

official municipal year. The commission shall review the report and shall approve or reject the certification of each sign that the officer has identified as being nonconforming. Once certified by the commission as nonconforming, a sign shall be given an alpha-numeric designation for future reference. Upon receipt of the approved certified report from the commission, the officer shall notify each tenant and property owner of such nonconforming sign status.

(8) *Amortization of nonconforming signs :*

- a. *Responsibility of the board of adjustment :* It shall be the responsibility of the board of adjustment to provide a program for the orderly and fair termination of all nonconforming signs in La Marque. The board shall cooperate with the code enforcement officer in reviewing the status of certified nonconforming signs for amortization scheduling and termination.
- b. *Public hearing required :* Prior to the establishment of an amortization schedule for a nonconforming sign, the board of adjustment shall hold a public hearing. Notice of the hearing shall be given in written form to the tenant and owner of the certified nonconforming sign and shall be published in a newspaper of general circulation in La Marque. The notice shall state the time and the place of the hearing. The notice shall appear in said newspaper at least 15 days prior to the date set for the public hearing.
- c. *Factors to be used by the board of adjustment in amortization scheduling :* In determining the amortization schedule for the termination of a certified nonconforming sign, the board of adjustment shall consider the following factors:
 1. The length of time required for the user or owner of the sign to amortize his/her capital investment.
 2. The general condition of the sign.
 3. The length of time that the sign has been used.
 4. The land use activities surrounding the sign in question.
- d. *Notification and recordation :* The board of adjustment shall send a copy of all approved amortization schedules for the termination of nonconforming signs to the owners and lessees of affected sites. The termination date and the reasons for the schedule term shall be clearly described in the notification. The code enforcement officer shall keep a permanent record of all amortization schedules for nonconforming signs for the city.
- e. *Violation of an amortization schedule :* The failure of an owner or a tenant of a certified nonconforming sign to comply with the termination date of a recorded amortization schedule shall constitute a violation of this article and shall be punishable in accordance with the terms of Article G, [of the ordinance from which this section derives].

(Ord. No. O-2016-0013, § 2, 9-19-2016)

Editor's note— Ord. No. O-2016-0013, § 2, adopted Sept. 19, 2016, amended Ch. 71 by adding provisions intended for use as § 71-27. Inasmuch as said section already exists in the Code, provisions have been added as § 71-28, at the editor's discretion.

Sec. 71-29. - Residential canal zone.

- (a) That Omega Bay Subdivision, located within the city limits of the city is hereby recognized as a residential canal zone.
- (b) That any and all roads within the designated canal zone may be no less than 20 feet in width and shall conform to all current city Code of Ordinance requirements.

- (c) (1) New construction and improvements require the approval of the governing authority of the residential canal zone and a city building permit.
- (2) Premises shall not be used for anything other than residential purposes and shall not be used directly or indirectly for the conduct of any business whatsoever, commercial or otherwise.
- (3) Within a residential canal zone, the following shall apply:
- Only one residence is permitted per lot; no duplexes are allowed.
 - Where lots are 60 feet or less in width, residences shall be a minimum of 1,000 square feet. For lots greater than 60 feet in width, residences shall be a minimum of 1,200 square feet.
 - Building setbacks are 20 feet from roads and canals and five feet on sides adjacent to other lots. Fences are allowed in the five foot setbacks but prohibited in the 20' setbacks.
 - The outside finish on all residences and other accessory buildings must be of acceptable materials and shall be kept in good repair and in a neat and clean condition, and shall be cleaned or painted when necessary to preserve attractiveness.
 - Construction shall be completed within 120 days from date of issuance of a building permit.
 - No temporary building, tent, house trailer, or any other form of shelter shall be placed upon the lot during construction or at any other time.
- (d) All new or remodeled structures on any lot within a residential canal zone shall be constructed in such a way as to have a zero drainage impact to any street or adjacent property. Each lot shall be maintained so as to preserve the drainage of the lots and adjacent roadway areas. The erections or placing of any structure or object, or the filling in or excavation of any area of the lot which will prevent free and adequate drainage or allow water to stand on the lot, or adjacent lots, or adjacent waterway, is prohibited.
- (e) That any accessory to buildings, attached or detached, such as sheds and decks, shall be erected in accordance with section 71.21(b) this Code and be consistent with the style and outside finish of the residence and be constructed only upon approval of the governing authority of the residential canal zone and subsequently submitted to the city for permit.
- (f) That any privacy fence shall not be located within the 20 foot setback from any canal (navigable waterway) and conform with section 71.21(a)(3) of this Code and be constructed only upon approval of the governing body of the residential canal zone and subsequently submitted to the city for permit.
- (g) A permit application with engineered plans shall be submitted to the governing authority of the residential canal zone and upon approval submitted to the city for permit approval prior to the commencement of construction of any boat house/vessel docks and shall require final inspection. Further, any boat house/vessel dock shall not extend more than 12 feet into a navigable waterway. With approval from the governing body of the residential canal zone, a variance allowing an additional two feet may be requested.
- (h) No livestock, poultry or other domestic or exotic animals of any kind whatsoever other than cats or dogs shall be placed, allowed or kept on any lots and permitted pets must be kept and maintained so as not to constitute an annoyance or nuisance to the other lots in the subdivision. Permitted pets shall be licensed and in conformance to Galveston County Animal Control Regulations.
- (i) In the event any clause, phrase, provision, sentence, or part of this section or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this section as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the city council of the city, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

- (j) *Savings and repealing clause* . All provisions of any ordinance in conflict with this section are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed Ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.
- (k) Any violation of this section or subsection, shall be a misdemeanor and subject to punishment as described in section 1-7 of this Code.

(Ord. No. O-2016-0021, § 2, 11-14-2016)

Editor's note— Ord. No. O-2016-0021, § 2, adopted Nov. 14, 2006, added provisions intended for use as § 71-A. In order to maintain Code format and to allow for future expansion of the Code, said provisions have been redesignated as § 71-29 as set out herein, at the editor's discretion.