ACTION FORM
BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING:	August 4, 2015	**DATE SUBMITTED:**	July 17, 2015
DEPARTMENT OF ORIGIN:	Development Serv.	**SUBMITTED BY:**	Martin Zimmermann

MEETING TYPE:	**CLASSIFICATION:**	**ORDINANCE:**	**STRATEGIC INITIATIVE:**
☐ **BCD**	☒ **PUBLIC HEARING**	☐ **1ST READING**	☐ **PUBLIC SAFETY**
☐ **SPECIAL**	☐ **CONSENT**	☐ **2ND READING**	☒ **SERVICE**
☒ **REGULAR**	☐ **STATUTORY**		☐ **ECONOMIC DEVELOP.**
☐ **WORKSHOP**	☐ **REGULAR**		☐ **INFRASTRUCTURE**
			☐ **QUALITY OF LIFE**

AGENDA ITEM DESCRIPTION: Consideration of an ordinance to amend the text of Bryan Code of Ordinances Chapter 62, Land and Site Development and Chapter 130, Zoning, correcting internal conflicts, inconsistencies, ambiguities, scrivener's errors, formatting mistakes and other technical irregularities of a non-substantive nature, to make the ordinances easier to use, less prone to misinterpretation and confusion, and more legally defensible.

SUMMARY STATEMENT: In August 2014, City staff responded to editorial changes suggested by a citizen by hiring a consultant to help to identify and resolve redundancies between the City's Zoning Ordinance (Chapter 130) and the Land and Site Development Ordinance (Chapter 62). Duncan Associates was hired in September 2014 to work with City staff from the Planning and Legal Departments to identify and correct internal conflicts, inconsistencies, ambiguities, scrivener's errors, formatting mistakes and other technical irregularities in the two ordinances. The exclusive focus was on proposing non-substantive changes that would make the ordinances easier to use, less prone to misinterpretation and confusion and more legally defensible.

The final issues list includes 67 categories of discrepancies and irregularities, some of which affect a single ordinance provision, others of which occur multiple times throughout the two ordinances (e.g., capitalization inconsistencies). In April 2015, draft changes were distributed to the Planning and Zoning Commission and the citizen that had initially suggested editorial changes.

On June 9, 2015, the City Council unanimously voted to approve the first reading of a similar ordinance. The next day, it was discovered that the redline version of that ordinance had been inadvertently corrupted during the Council Action Form review process. Staff therefore withdrew the second reading of that ordinance from the City Council's special meeting agenda on June 30, 2015, so this item could be presented to the City Council, as originally intended and recommended by the City's consultant and the Planning and Zoning Commission. This Council Action Form includes both redline and "clean" versions of the proposed ordinance.

STAFF'S RECOMMENDATION: During its meeting on May 7, 2015, the Planning and Zoning Commission unanimously agreed with staff and recommended approving the proposed amendments to Chapters 62 and 130.

OPTIONS (In Suggested Order of Staff Preference):

1. approve the proposed ordinance amendments;
2. do not approve the proposed ordinance amendments; or
3. approve the proposed ordinance amendments with modifications, which may require consideration at a future City Council meeting

ATTACHMENTS: 1. draft ordinance (redline version) 2. draft ordinance ("clean" version) 3. excerpt from May 7, 2015, Planning and Zoning Commission regular meeting minutes 4. letter from consultant dated March 31, 2015 5. list of technical issues and proposed corrections (separate PDF) 6. email from Roger E. Smith dated April 14, 2015
FUNDING SOURCE: General Fund (FY15 Development Services budget, $16,945)
APPROVALS: Kevin Russell, 7-21-15; Joey Dunn, 7-21-15; Hugh R. Walker, 07/22/2015
APPROVED FOR SUBMITTAL: CITY MANAGER
APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis Hampton, 7/23/2015

Revised 05/2013

ORDINANCE NO._____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, REPEALING AND REPLACING CHAPTER 62, LAND AND SITE DEVELOPMENT AND CHAPTER 130, ZONING, CORRECTING INTERNAL CONFLICTS, INCONSISTENCIES, AMBIGUITIES, SCRIVENER'S ERRORS, FORMATTING MISTAKES AND OTHER TECHNICAL IRREGULARITIES OF A NON-SUBSTANTIVE NATURE, TO MAKE THE ORDINANCES EASIER TO USE, LESS PRONE TO MISINTERPRETATION AND CONFUSION, AND MORE LEGALLY DEFENSIBLE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING A PENALTY CLAUSE; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THIS ORDINANCE WAS PASSED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bryan has adopted Chapter 62, Land and Site Development, and Chapter 130, Zoning, of the City of Bryan Code of Ordinances; and

WHEREAS, the City Council recognizes the need from time to time to review said ordinances to identify and correct internal conflicts, inconsistencies, ambiguities, scrivener's errors, formatting mistakes and other technical irregularities of a non-substantive nature, to make the ordinances easier to use, less prone to misinterpretation and confusion, and more legally defensible; and

WHEREAS, the Bryan Planning and Zoning Commission during its May 7, 2015 regular meeting recommended that the proposed amendments to Chapters 62 and 130 be approved; and

WHEREAS, the City Council has held a public hearing on the proposed amendments for which notice was published at least fifteen days prior to the hearing date;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:

1.

That the City Council finds and determines the foregoing recitals are true and correct and are incorporated herein.

2.

That the entire text of Chapter 62, Land and Site Development is hereby repealed and replaced to read as follows:

Chapter 62 – "Land and Site Development Ordinance "

Article I. "In General"

Sec. 62-1 General definitions.

The following words, terms and phrases, when used in this chapter or when used Chapter 130 (Zoning Ordinance), shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. ~~:~~ Words and terms that are not expressly defined in this chapter or in

Chapter 130 have their ordinary dictionary meanings, based on the latest edition of Merriam-Webster's Unabridged Dictionary.

Access shall mean a way or means of approach to provide a vehicle or pedestrian a physical entrance and exit to a property.

Access aisle shall mean an accessible pedestrian space between elements, such as parking spaces, that provides clearances appropriate for use of the elements.

Accessible shall mean a site, building, facility, or portion thereof that can be approached, entered, and used by physically disabled people.

Accessible route shall mean a continuous unobstructed path connecting all accessible elements and spaces that can be negotiated by a severely disabled person using a wheelchair and that is also safe for and usable by people with other disabilities. Exterior accessible routes may include parking access aisles, curb ramps, walks, and ramps.

Aisle shall mean the area within a parking lot which allows vehicles access to parking spaces. The aisle serves as a travel way through the parking lot as well as a maneuvering area, which permits full and direct ingress and egress to parking spaces.

Barrier shall mean a device or treatment which controls the movement, circulation, separation or direction of vehicular traffic. Such treatments include but are not limited to wheel stops, end islands, and dividers.

Bay width shall mean a distance measured perpendicular to and from the front of a parking space, across the maneuver space, to the front of the opposite parking space.

Buildable area shall mean an area located within a lot, bounded by the front, side, and rear setback lines. The area may be further restricted by the placement of easements or special setbacks. Construction of the structures must be limited to this area.

Building. See "Structure."

Building height shall mean the vertical distance from the grade plane to the average height of the highest roof structure.

Building line. See "Setback line."

Corner clearance shall mean a distance measured from the edge of pavement of an intersecting street to the edge of pavement of the first driveway.

Curb return radius shall mean the radius defined by the arc section used in access apron design of an intersection or driveway at the curbline of the street.

Developer shall mean any person, business, or group required to submit a site plan in accordance herewith, or anyone who owns the site or is in control of the property.

Driveway shall mean a private roadway providing access for vehicles from public or private property to the adjacent public street.

Driveway separation shall mean a distance measured from the edge of pavement of a driveway, along the curbline, to the edge of pavement of the next driveway.

Duplex shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.~~mean a building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof.~~

Dwelling unit shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.~~mean a single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation~~.

Edge of pavement (EOP) shall mean the outermost edge of the pavement. For streets with curb and gutter, the outside edge of the curb is the edge of pavement. For streets without a curb, the edge of the asphalt pavement is the edge of pavement. This should not be confused with the crushed rock base which will often extend beyond the asphalt pavement.

Encroachment shall mean part of a structure or building which extends into a setback area, easement or right-of-way.

Façade articulation ~~—T~~shall mean the use of details to divide building faces into parts and add interest.

Full review shall mean review of a site plan by the Site Development Review Committee.

Glazing ~~—~~shall mean ~~G~~glass or plastic fitted into a wall or roof opening to provide light to interior spaces, predominantly windows or glass block.

Home occupation shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.~~mean any occupation or activity conducted within a dwelling unit which is clearly incidental and subordinate to the use of the premises for dwelling purposes; provided that:~~

~~(1) No person-to-person retail business of any sort is involved.~~

~~(2) No stock in trade is kept nor commodities sold except those made or used on the premises. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.~~

~~(3) Only members of the family residing on the premises are employed. No equipment is used which creates offensive noises, vibrations, sound, smoke or dust, odors, heat, glare, X-ray, or electrical disturbance to radio or television. In particular, a home occupation includes the following and similar uses: artist studio, dressmaking and millinery; limited professional practice provided no clients or customers are permitted on the premises (such as lawyer, engineer, architect, or accountant); music teaching limited to not more than two pupils at one time. Commercial repair of automobiles shall not be permitted.~~

~~(4) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, nonilluminated, and mounted flat against the wall of the principal building.~~

~~(5) No home occupation shall be conducted in any accessory structure.~~

~~(6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and require no additional parking spaces beyond those required for the dwelling unit.~~

Joint access easement shall mean an easement creating a legal means by which two or more property owners and/or two or more properties may utilize one joint driveway for access. This easement shall be for public use but privately maintained.

Letter of encroachment shall mean a letter which serves as written evidence or which verifies that a building/structure encroachment was constructed prior to the effective date of the Comprehensive Zoning Ordinance (February 12, 1990) or prior to any subsequent ordinance amendments which affect the building setback area requirements.

Limited review shall mean review of a site plan when change of ownership, change of use, or change of tenant of an existing structure occurs. Limited review does not apply to single-family residential.

Liner stores —shall mean Ccommercial structures placed at the edge of a shopping center to enhance quality of development and of adjacent street face.

Lot, corner shall mean a lot or parcel of land abutting two or more streets at their intersection or two parts of the same street forming an interior angle of less than 135 degrees.

Lot coverage shall mean the impervious area of a lot covered; including but not limited to the area covered by parking spaces, driveways, sidewalks, rocked areas, and equipment pads located thereon.

Lot depth shall have the meaning ascribed in Chapter 110.mean the average distance measured from the front lot line to the rear lot line.

Lot, double-frontage shall mean a lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

Lot, flag shall mean a lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width, but not less than 25 feet in a residential district and 50 feet in a nonresidential district. The maximum length of the "pole" of the flag lot shall be 110 feet.

Lot, front or frontage shall mean that portion of a tract of land which is the principal side of a property and which abuts on a public street to which it has direct access.

Lot, improved shall mean a lot upon which a building can be constructed. This requires that the lot have frontage on, or access to, an improved street and all utilities (such as water, sewer, and electric).

Lot, interior shall mean a lot other than a corner lot.

Lot lines or property lines shall mean the lines bounding a lot.

Lot of record shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk of the county or a lot subdivided by metes and bounds description prior to May 1967.

Lot size shall mean the total area, measured on a horizontal plane, included within lot lines.

Lot, substandard shall mean a parcel of land that does not meet all City standards.

Lot width shall have the meaning ascribed in Chapter 110.mean the distance from one side lot line to the other as measured at the front setback.

Main structure shall mean a structure in which the principal use of the lot on which it is situated is conducted. In a residential district, any dwelling shall be deemed a main structure on the lot on which it is situated.

Marginal access street shall mean minor street which is parallel with and adjacent to arterial and collector streets and highways and which provides access to abutting properties and protection from through traffic.

Multifamily (residential) development or dwelling shall mean a structure or grouping of structures where each structure contains 3 or more dwelling units intended for human habitation, not including hotels, motels and similar lodging uses. Although multifamily units developments are for residential use, due to the higher intensity of the sites, multifamily residential developments shall follow all requirements outlined in applicable to nonresidential developments and shall be submitted for a full review by the Site Development Review Committee.

On-site renewable energy —shall mean Tthe use of energy sources that cannot be easily depleted to reduce energy reliance on fossil fuels; options include solar, wind, geothermal, low-impact hydro, biomass, and bio-gas strategies.

Nonresidential development shall mean all development except for that of single-family residential. This includes, but not limited to, construction or extension, change of use, repair, reconstruction or other improvement of a property which increases the gross square footage of any structure.

Pad site shall mean ~~—A~~a freestanding parcel at the edge of a shopping center, generally leased or sold to financial institutions, fast-food outlets, or chain restaurants; also called an outparcel.

Parking bay shall mean that portion of a parking area containing at least one row of parking spaces, but not more than two rows and the associated maneuver space for entering and leaving the spaces.

Parking space shall mean a space in a parking area marked and reserved for the parking of a motorized vehicle.

Patio home shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.~~mean a single-family dwelling on a separate lot with open space setbacks on three sides and a zero lot line on one side.~~

Principal street shall mean ~~— T~~the roadway with the highest level of priority adjacent to the lot or site.

Public easement shall mean an area of land reserved for the use of the public by the grantor, in which to install and maintain utility lines, drainage ditches or channel, or for other City or public services; the ownership or title to the land encompassed by the easement being retained by the owner. No building or part of a building or other permanent structure may be located within the limits of the easement.

Publicly visible façade shall mean ~~—A~~a building façade visible from a public right-of-way, not including alleys or other public rights-of-way used for utilitarian purposes only. Building facades adjoining other buildings (attached to more than 50%~~ percent~~ of the sidewall) are exempt.

Redevelopment shall mean any change of use, change of ownership, change of tenant, voluntary improvement, substantial reconstruction, conversion, structural alteration, relocation, or enlargement of any structure and/or site.

Right-of-way shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.~~mean an area of land dedicated as public property on which an irrevocable right-of-passage has been recorded for public use.~~

~~*Single-family development* shall mean development of a single-family lot for residential use. This includes single-family dwelling units, patio homes, townhouses, and duplexes.~~

SDRC shall mean Site Development Review Committee; consisting of representatives from the City charged with reviewing site plans.

SDRC Chair shall mean the officer or duly authorized representative, designated by the ~~c~~City ~~m~~Manager, charged with the administration and enforcement of this article.

Setback shall mean the distance between the outside wall of the main building and any lot line. The setback may exclude uncovered walks, chimneys, bay windows, and roof overhangs up to 18 inches in width.

> *Front setback* shall mean the line extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.
>
> *Rear setback* shall mean the line extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Side setback shall mean the line between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

Setback area shall mean area of a lot defined by and contained within the property lines and the setback lines.

Setback lines shall mean a line parallel with the property line at a specific distance there from defining the minimum distance from the property line that a structure may be erected.

Sight distance triangle shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.~~mean a triangular shaped portion of land established at street intersections in which no visual obstructions are erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the line of visibility of motorists entering or leaving the intersection.~~

Single-family detached dwelling shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance. ~~mean a dwelling unit designed for and occupied by one family and surrounded by open space.~~

Site shall mean land upon which constructions, expansions, reconstructions or other improvements are to be done.

Site plan shall mean the development plan for one or more proposed lots that shows all information that reasonably may be required in order that an informed decision can be made by the approving authority.

Solar Reflectance Index shall mean ~~M~~measurement of a material's ability to reflect (or "reject") heat; the higher the measurement, the less heat that is absorbed by the material.

Structure shall mean any manmade construction either built or moved onto a site, affixed to the ground, and which is used to shelter, enclose, or support persons or moveable property. A fence requiring footings or a foundation is considered a structure. Driveways, patio slabs, walkways, and fences ~~six~~6 feet tall or less shall not be considered as structures.

Sustainable roof shall mean ~~A~~a roof that utilizes vegetation, a rainwater collection system, or reduces heat transmittance in order to decrease the amount of energy needed to heat and cool its building and possibly other buildings.

Throat depth shall mean a distance measured from the edge of pavement of the street to the first point of conflict.

Townhouse shall mean a single-family dwelling in a row of at least 3 such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

Vehicle lay of hose (VLH) shall mean the distance of hose as it lays off the fire truck, from the hydrant to within 100 feet of the furthest point of the building. The total distance shall include the use of public right-of-way, approved fire lanes, and/or drive accessways. In no case shall the VLH be measured across grass, wooded or landscaped areas, over curbs, through fences, ditches or across paved areas that are not engineered for fire apparatus.

Vicinity map shall mean a map illustrating the location of a site within the City, not necessarily to scale.

Visible Transmittance shall mean ~~M~~measurement of how much light comes through glazing, or how transparent the glazing is; the higher the measurement, the more light a material transmits from one side to the other.

Zero lot line shall mean the location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

Sections 62-2--62-22. Reserved.

Article II. "Single-Family Residential Development"

Sec. 62-23 Scope and purpose.

(a) This article establishes the submittal requirements by which residential site plans will be reviewed by the City.

(b) The purpose is to ensure the technical, nonconflicting compliance with all of the laws and ordinances of the City so as to protect the health, safety, and welfare of its citizens.

(c) The SDRC Chair reserves the right to require a residential site plan to go before the Site Development Review Committee for review. All applications for duplexes, townhouses, and patio homes will be reviewed by the Site Development Review Committee. Due to the higher intensity of the site, all multifamily ~~residential~~ development site plans shall follow the requirements outlined in nonresidential development.

Sec. 62-24 Form and content.

Residential site plan applications must contain the following:

(a) Date of application;

(b) Property street address;

(c) Legal description of the property (subdivision, phase, lot, block);

(d) Date of manufactured home, if applicable;

(e) Zoning of property;

(f) North arrow;

(g) Scale of drawing (or dimensions);

(h) Property lines (with lot dimensions);

(i) Adjoining streets and/or alleys;

(j) Size, location and type of any easements;

(k) Location of utility poles, guy wires, sanitary sewer manholes, public mains, fire hydrants, or any other significant feature or obstructions on the property;

(l) Outline of all structures using a dashed line to indicate roof line (label existing or proposed);

(m) Area in square feet of all structures;

(n) Number of stories on structures;

(o) Building setback lines;

(p) Location of all paved areas including driveways, curbs, sidewalks, patios;

(q) Driveway construction material (asphalt or concrete);

(r) Existing and proposed fences (including height and type);

(s) Existing creeks, culverts, retaining walls or other drainage features on the property; or adjacent property, which may be affected by construction;

(t) Completed checklist.

Sections 62-25—62-51. Reserved.

Article III. "Nonresidential and Multifamily Development"

Division 1. "Generally"

Sec. 62-52 Scope and purpose.

(a) This article establishes the process by which site development proposals will be reviewed by the Site Development Review Committee. It defines the submittal and content requirements for all nonresidential and multifamily site plan review.

(b) The purpose is to ensure the technical, nonconflicting compliance with all of the laws and ordinances of the City so as to protect the health, safety, and welfare of its citizens.

(c) If all access and construction-related permits necessary for completion of any site development plan have not been released within 12 months of the plan approval, then the site development plan shall become null and void. It shall be incumbent upon the ~~p~~Planning and Development Services Department staff and other Site Development Review Committee members to make all inspections and certifications necessary to ensure that development occurs in accordance with the approved site plan.

Sections 62-52—62-77. Reserved.

Division 2. "Administration"

Sec. 62-78 Site Development Review Committee--Purpose.
The Site Development Review Committee shall be organized to generally ensure compliance by site owners with all applicable codes, regulations, laws, ordinances and plans and to coordinate examination of development proposals to ensure that all City requirements, established by ordinance, resolution or policy, have been met without conflict. The Site Development Review Committee shall have all the power and duties specifically provided for herein.

Sec. 62-79 Same--Organization and membership.

The Site Development Review Committee shall consist of, but not be limited to, the following:

(a) Planning and ~~d~~Development S~~s~~ervices;

(b) Engineering/~~b~~Building ~~s~~Services;

(c) Environmental ~~s~~Services;

(d) Fire ~~services~~Department;

(e) Parks and ~~r~~Recreation;

(f) Police ~~services~~Department;

(g) Solid ~~w~~Waste Group;

(h) Transportation/Streets and ~~d~~Drainage Services;

(i) Water ~~s~~Services;

(j) Bryan Texas Utilities.

Sec. 62-80 Same--Powers and duties.

(a) The Site Development Review Committee shall determine from data submitted whether or not site plans meet the requirements of codes, regulations, and ordinances.

(b) The Site Development Review Committee, after review of the site plan, shall inform the owner in writing of any technical compliance problems in the plan. Compliance and enforcement shall be as provided in the particular code, regulation, or ordinance violated.

Sec. 62-81 Site development plan required.
Site plans to be reviewed by the Site Development Review Committee will apply to all types of nonresidential and multifamily development.

Sec. 62-82 Administrative authority for modification of application requirements.

When justified in special circumstances, the SDRC Chair, or his or her designee, is authorized to modify the content or review procedures for applications and associated documents required by this article.

Sections 62-83—62-107. Reserved.

Division 3. Site Development Requirements

Sec. 62-108 Approval requirements.

(a) The developer shall comply with all applicable requirements and regulations.

(b) Site plans may not be approved on unplatted property except where a structure or use exists on an unplatted parcel.

(c) All improvements shown on an approved site plan must be completed prior to issuance of the certificate of occupancy. The SDRC Chair shall coordinate all information dissemination.

(d) A certificate of occupancy may be granted for a partial development if the partial development is consistent with phasing shown on an approved site plan.

(e) The site plan must conform to any recorded plat or filed master plan for that same property or subdivision of which it is a part.

(f) Fees for site plan applications shall be as set by the ~~c~~City ~~c~~Council by separate resolution~~ hereto~~. Said resolution is incorporated herein by reference as though reproduced herein verbatim. Fees are due and payable at time of application and are nonrefundable.

(g) An appeal to any decision made by the SDRC Chair and/or the Site Development Review Committee may be made to the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. Application for appeal shall be made in writing with the ~~p~~Planning and ~~d~~Development ~~s~~Services ~~d~~Department no less than ~~ten~~10 working days after the date the Site Development Review Committee meets.

Sec. 62-109 Application and processing of full review site plans.

The applicant shall submit 15 copies of the site plan to the ~~p~~Planning and ~~d~~Development ~~s~~Services Department. If the submittal is in the City's ETJ, 20 copies will be required. Incomplete plans shall not be accepted. The copies will be forwarded to the Site Development Review Committee for review.

Sec. 62-110 Application and processing of limited review site plans.

The applicant shall submit a completed application indicating what type of change is occurring. The SDRC Chair will review the application and determine what site improvements shall be required. If improvements are necessary, one copy of a site plan may be required. Upon review, the SDRC Chair may

forward the application to the Site Development Review Committee. At such time, 15 copies of the site plan will be required.

Sec. 62-111 Redevelopment.

In the event a site undergoes a change of use, change of ownership, change of tenant, voluntary improvement, substantial reconstruction, conversion, structural alteration, relocation, or enlargement, the SDRC Chair or Site Development Review Committee may require the site to comply with current ordinances.

Sec. 62-112 Form and content.

Site plans submitted must show the following items. All drawings shall be to scale, clear and complete to obtain site plan approval.

(a) The site plan shall not exceed 24 inches by 36 inches nor be less than 8 1/2 inches by 11 inches. The site plan shall be drafted at an appropriate engineering scale.

(b) Property lines of the subject site and all adjoining parcels, platted or unplatted. Platted and unplatted parcels shall be identified with the legal description and the owner's name.

(c) Boundaries of the property with dimensions, and with building setback lines on all sides.

(d) Existing and proposed streets, alleys, lots, reservations, public and private easements and areas dedicated to public use. Easements shall be labeled as to type and volume and page as applicable. In addition, the site plan shall show all driveways, rights-of-way, and street intersections that are adjacent to or directly across from the subject site.

(e) The location and design of all means of vehicular access to and from the site onto public rights-of-way, indicating the location and size of all driveways (including those on the adjacent property and the opposite side of the street), curb return radii, curb cuts and location and size of sidewalks and ambulatory ramps when and where required. For any development abutting frontage roads, all entrance and exit ramps shall be shown on the vicinity map.

(f) Location of existing and proposed buildings-number of stories, gross square footage of building; solid line indicating slab location and dashed lines indicating line of roof overhangs; AC unit pads and covered entries; retaining walls, fences, culverts, bridges, roadways, etc. The structures to be removed or abandoned shall be shown with dotted lines.

(g) Location of existing and proposed storm drainage structures, storm sewers, grates, inlets, detention ponds, etc., with pipe sizes, grades and direction of flow and associated drainage easements, if any.

(h) Limits of existing flood hazard areas within and adjacent to the property, accurately showing the limits of building encroachments and earth fill within this area, with 100-year water surface elevations and proposed finished floor elevations denoted. For any encroachment of buildings or fill in the flood hazard area, the developer must have previously met the requirements set forth in C~~c~~hapter 46.

(i) Location of existing and proposed utilities (water, sanitary sewer, cable television, gas, electric and telephone) with service sizes, tap and meter locations, service types, grades and direction of flow. Also, related easements that will accommodate more than one utility shall be shown and described.

(j) Location of power poles, guy wires, pad mount transformers, and other major electrical equipment.

(k) Location of existing and proposed fire hydrants and the vehicle lay-of-hose distance.

(l) Location of existing and proposed contour lines with spot elevations for proposed top-of-curb and parking lot slabs. The ~~c~~City ~~e~~Engineer will determine the extent to which this information will be shown in accordance with C~~c~~hapter 46.

(m) Location and screening or other description to indicate control and handling of solid waste. Indicate location and size of dumpster pad when dumpster is to be used.

(n) The planned use or uses of the site.

(o) The location and design of any off-street parking areas, including handicapped parking and loading areas, showing size and location of spaces, bays, isles, ramps and barriers in compliance with City standards and Texas Accessibility Standards. All customer parking areas must be clearly defined on the site plan and must be separate from areas to be used for display.

(p) Name of development, legal description of property, north arrow, scale, acreage name and address of record owner and engineer, draftsperson, architect and land planner.

(q) Both vicinity map and site plan shall be oriented with parallel north arrows. North arrow shall be oriented generally upward.

(r) Zoning designation as determined by the official zoning map.

(s) Landscaping plan as required by Article VII.

(t) Address of property as assigned by ~~p~~Planning and ~~d~~Development ~~s~~Services.

(u) Area designated for placement of debris during construction and wash out area for concrete trucks.

(v) Location and pavement type for temporary access for vehicles during construction. See ~~section~~ Sec. 62-296 access standards.

(w) Location of all waste water pre-treatment devices and sampling well, as applicable.

(x) All existing and proposed signage, including height, square footage, setbacks, and landscaping.

(y) Additional information or engineering data, in such form and content as necessary, to determine that the site plan meets the standards of the City.

Sec. 62-113 Revision of site plan after approval.

No changes, erasures, modifications or revisions shall be made to any site plan after approval has been given by the Site Development Review Committee, unless said changes, erasures, modifications or revisions are first submitted to and approved by the Site Development Review Committee. Minor changes correcting an error of measurements, acreage, dimensions or other similar situation may be approved by the SDRC Chair.

Sec. 62-114 Dedication and acceptance of public easements.

The Site Development Review Committee shall review all proposals for public easements not part of a recorded subdivision plat for access acceptability and need. The SDRC Chair is authorized to accept the easement for the City and will sign the document prior to filing.

Sections 62-115-62-139. Reserved.

Article IV. Building Setbacks and Lot Standards

Division 1. Generally

Sections 62-140--62-160. Reserved.

Division 2. "Lot Area, Height, and Setback Requirements"

Sec. 62-161 Standards.

The following standards apply ~~to zoning districts~~:

Zoning Districts	**A-O**	**RD-7**	**RD-5**	**MF**	**C-1**	**C-2**	**DT-N, DT-S, DT-C**	**C-3**	**I**	**MU-1**	**MU-2**
Front setback (3), (6), (7)	50'	25'	25'	25'	25'	25'	(8)	25'	25'	25'	25'
Side setback adjacent to abutting property (3), (5), (6)	20'	7.5'	7.5'	7.5'	7.5'	7.5'	(8)	7.5'	7.5'	7.5'	7.5'
Side setback adjacent to an arterial street (3), (6)	25'	25'	25'	25'	25'	25'	(8)	25'	25'	25'	25'
Side setback adjacent to a collector or local street (3), (6)	25'	15'	15'	15'	15'	15'	(8)	15'	15'	15'	15'
Rear setback adjacent to an alley or abutting property (3), (4), (5), (6), (10)	25'	7.5'	7.5'	7.5'	7.5'	7.5'	(8)	7.5'	7.5'	7.5'	7.5'
Maximum lot coverage (6)	75% (1)	75% (1)	75% (1)	75% (1)	75% (1)	75% (1)	n/a	75% (1)	n/a	75% (1)	75% (1)
Minimum lot size (3), (6)	1 ac	7000 sf	5000 sf	5000 sf	10500 sf	20000 sf	n/a	20000 sf	n/a	5000 sf	7000 sf
Minimum lot width (3), (6), (9)	150'	70'	50'	50'	70'	100'	n/a	100'	100'	50'	50'
Minimum lot	300'	100'	100'	100'	150'	200'	n/a	200'	200'	100'	100'

Zoning Districts	A-O	RD-7	RD-5	MF	C-1	C-2	DT-N, DT-S, DT-C	C-3	I	MU-1	MU-2
depth (3), (6)											
Maximum height (6)	50'	35'	35'	35' (2)	35' (2)	35' (2)	None	35' (2)	35' (2)	35'	35' (2)

Notes:

(1) This requirement shall only apply to development that does not require a landscape plan review.

(2) Structures over 35 feet in height are permitted with the additional setback of one foot additional setback for each two feet in height over 35 feet.

(3) Refer to ~~section 130-29 and setback~~ supplemental regulations in Sec. 62-167, Sec. 62-168 and Sec. 62-169 governing ~~requirements set forth in this article regarding standards for duplexes,~~ patio homes, ~~and~~ townhouses and duplexes.

(4) Refer to rear setbacks in Sec. 62-165 ~~this article~~ for additional restrictions.

(5) Refer to ~~section~~ Sec. ~~130-27~~ 130-32 for side and rear buffer setbacks when it is determined that a zoning district sides or backs upon a noncompatible zoning district.

(6) Refer to Article IX for restrictions applicable to wireless telecommunication facilities.

(7) Front setbacks for lots along the end of cul-de-sacs shall be reduced to 20 feet.

(8) In the Downtown ~~zoning~~ Districts, a minimum of 75~~ percent~~% of all facades must be built up to the property line. Refer to ~~section~~ Sec.~~130-16~~130-16, Sec. 130-17, Sec. 130-18 and Sec. 130-19.

(9) The minimum width for a lot intended for a duplex is 70 feet.

(10) Any site with rear vehicular access shall be required to have a 20 foot rear setback for the vehicular entry point of any structure.

Sec. 62-162 Lot size and coverage.

(a) The minimum lot size for the various districts shall be in accordance with the provisions of this chapter. Any lot having less area than herein required which was an official lot of record prior to the adoption of Ordinance No. 756, may be used and no lot existing at the time of passage of the aforementioned ordinance shall be reduced in area below the minimum requirements set forth in the respective district.

(b) Only one main structure for single-family and duplex dwellings, with permitted accessory structures and/or dwellings, may be located upon a lot.

(c) Any permitted structure or structures constructed or moved onto any lot shall be confined to the buildable area of the lot.

(d) The maximum coverage of a lot by structures, and associated parking spaces, driveways, sidewalks, and equipment pads, etc., in each district shall not exceed the provisions listed in this article.

Sec. 62-163 Front setback.

(a) Only front setbacks established in this chapter shall be enforced. Front setbacks in excess of the minimum requirements of this chapter that are established by a plat approved by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission prior to the passage of Ordinance No. 756 shall not be subject to enforcement under the provisions of this chapter.

(b) Where a right-of-way line has been changed or established for the widening or opening of a street or thoroughfare which a lot abuts, then the front setback shall be measured from the new right-of-way line.

Sec. 62-164 Side setback.

(a) Only side setbacks established in this chapter shall be enforced. Side setbacks in excess of the minimum requirements of this chapter that are established by a plat approved by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall not be subject to enforcement under the provisions of this chapter.

(b) Where a right-of-way line has been changed or established for the widening or opening of a street or thoroughfare which a lot abuts, then the side setbacks shall be measured from the new right-of-way line.

Sec. 62-165 Rear setback.

(a) Only rear setbacks established in this chapter shall be enforced. Rear setbacks in excess of the minimum requirements of this chapter that are established by a plat approved by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall not be subject to enforcement under the provisions of this chapter.

(b) Where a right-of-way line has been changed or established for the widening or opening of a street or thoroughfare which a lot abuts, then the rear setback shall be measured from the new right-of-way line.

Sec. 62-166 Special height limitations.

The height limitations specified by this article do not apply to cooling towers, chimneys, vent stacks, water stand pipes and tanks, steeples, spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Sec. 62-167 Patio home requirements.

(a) Building setbacks ~~lines.~~

(1) Front yard.
The minimum front yard setback shall be 20 feet. However, if all off-street parking is located in the rear of the dwelling unit and no curb cuts are provided on the front (street side), then the front yard setback may be reduced to 15 feet.

(2) Side yard.
The minimum side yard setback shall be ~~ten~~10 feet on lots siding on alleys. Patio homes must be constructed at least ~~ten~~10 feet from one side lot line. The minimum side yard setback on corner lots shall be 15 feet on minor streets, 20 feet on secondary or collector streets, and 25 feet on arterial streets.

(3) Rear yard.
The minimum rear yard setback shall be 20 feet. However, if off-street parking is located on the front side (street side), then the rear yard setback may be reduced to ~~ten~~10 feet.

(4) Common courts.
Where patio home lots and dwelling units are designed to face an open or common court rather than a public street, then said open or common court shall be at least 40 feet wide and no more than 200 feet long, measured from the public street to which said court must open. Said court may not include vehicular drives or parking area in front of dwelling units.

(b) Lots.

(1) Area.
Lot area shall be a minimum of 3,600 square feet.

(2) Width.
Lot width shall be a minimum of 36 feet.

(3) Depth.
Lot depth shall be a minimum of 100 feet.

(4) Corner lot.
Corner lots shall have a minimum width of ~~ten~~10 feet greater than interior lots.

(c) Other Regulations.

(1) All patio home developments shall have a direct access street to at least one dedicated and accessible public street having a right-of-way width of not less than 50 feet.

(2) Alleys, where used, shall have a minimum right-of-way of 20 feet and shall be developed with a concrete pavement in accordance with City construction standards.

(3) Utilities shall be provided for each dwelling unit on an individual basis.

(4) Standard fire hydrants shall be installed as part of the water distribution system per specifications of the State Department of Insurance and in accordance with City standards of construction.

(5) Any developer whose property has a common maintenance or ownership agreement shall be required to file all covenants and declarations governing those agreements at the time of platting. The final plat shall reflect the volume and page reference of such covenants and declarations filing.

Sec. 62-168 Townhouse requirements.

(a) Building setbacks.

(1) Front yard.
The minimum front yard setback shall be 20 feet. However, if all off-street parking is located in the rear of the dwelling unit and no curb cuts are provided on the front (street side), then the front yard setback may be reduced to 15 feet.

(2) Side yard.
The minimum side yard setback shall be ~~ten~~10 feet on lots siding on alleys. The minimum side yard setback on corner lots shall be 15 feet on minor streets, 20 feet on secondary and collector streets, and 25 feet on arterial streets. There shall be a minimum of ~~ten~~10 feet of unobstructed distance between any townhouse group consisting of contiguous dwelling units.

(3) Rear yard.
The minimum rear yard setback shall be 20 feet. However, if off-street parking is located on the front (street side), then the rear yard setback may be reduced to ~~ten~~10 feet.

(4) Common courts.
Where townhouse lots and dwelling units are designed to face an open or common court rather than upon a public street, then said open or common court shall be at least 40 feet wide and not more than 200 feet long, measured from the public street to which said court must open. Said court may not include vehicular drives or parking area in front of dwelling units.

(b) Lots.

(1) Area.
Lot area shall be a minimum of 2,500 square feet.

(2) Width.
Lot width shall be a minimum of 25 feet.

(3) Depth.
Lot depth shall be a minimum of 100 feet.

(4) Corner lot.
Corner lots shall have a minimum width of ~~ten~~10 feet greater than interior lots.

(c) Other Regulations

(1) Streets.
All townhouse subdivisions shall have a direct access street to at least one dedicated and accessible public street having a right-of-way width of not less than 50 feet. Alleys, where used, shall have a minimum right-of-way of 20 feet and shall be developed with a concrete pavement in accordance with City construction standards.

(2) Utilities.
Utilities shall be provided for each dwelling unit on an individual basis.

(3) Fire hydrants.
Standard fire hydrants shall be installed as part of the water distribution system per specifications of the State Department of Insurance and in accordance with City standards of construction.

(4) Covenants.
Any townhouse developer whose development has a common maintenance or ownership agreement shall be required to file all covenants and declarations governing those agreements at the time of platting. The final plat shall reflect the volume and page reference of such covenants and declarations filing.

(5) Townhouse groupings.
Townhouse groupings shall not exceed a length of more than 300 feet for any one group.

Sec. 62-169 Duplex requirements.

Duplexes can be constructed on the following lot configuration:

(a) Number of dwelling units.
Each lot shall be permitted to contain a maximum of ~~two~~ 2 dwelling units.

(b) Area.
A lot with Lot area shall be a minimum of 7,000 square feet.

(c) Width.
Lot width shall be ~~must have~~ a minimum of 70 feet ~~of width~~.

(d) Building setbacks.
Minimum building ~~All~~ setbacks shall be as specified in this chapter for the district where the duplex is located.

Sec. 62-170 Corridor ~~o~~Overlay ~~d~~District lot and setback standards.

(a) Refer to ~~section~~ Sec. ~~130-24~~ 130-26, Sec. 130-27 and Sec. 130-28 for a complete list of development standards for the corridor overlays.

(b) The following standards apply to all ~~c~~Corridor ~~o~~Overlay ~~d~~Districts:

Corridor Overlays	**W. Villa Maria**	**FM 2818**	**FM 158**	**SH 47**	**South College**
Front setback	25' (1)	25' (1)	25' (1)	50' (1)	15' (1)
Side setback adjacent to abutting property	10'	10'	10'	15'	5'
Side setback adjacent to arterial street	25'	25'	25'	25'	15'
Side setback adjacent to collector or local street	25'	25'	25'	25'	10'
Rear setback adjacent to alley or abutting property	7.5'	7.5'	7.5'	15'	5'
Maximum lot coverage	See Zoning Designation	See Zoning Designation	See Zoning Designation	70%	N/A
Minimum lot size	20,000 sf	20,000 sf	20,000 sf	125,000 sf	5,000 sf
Minimum lot width	100'	100'	100'	250'	50'
Minimum lot depth	200' (2)	200' (2)	200' (2)	500'	100'
Maximum height	35' (3)	35' (3)	35' (3)	87.5' (3)	35' (3)

Notes:
(1) Parking will not be allowed in the setback.
(2) When fronting on the specified thoroughfare.
(3) Allowed with additional setback of one foot per two feet in height over 35 feet.

Sections 62-171--62-190. Reserved.

Division 3. "Variances"

Sec. 62-191 Granting.

(a) Planning and ~~zoning commission~~ Zoning Commission authorization.
The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall prescribe only conditions that it deems necessary to or desirable in the public interest.

(b) Conditions.
No variance shall be granted unless the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission finds that all of the following are met:

(1) That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200 foot radius);

(2) That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property; and

(3) That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

(c) Findings.
Such findings of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Formal application.
All requested variances from this article shall be made in the form of a formal application prior to the date on which consideration is to be given by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. Submittal shall be made in the ~~office of p~~Planning and ~~d~~Development ~~s~~Services Department.

Sec. 62-192 Appeals.

(a) Request by applicant.
If the applicant should disagree with the action of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, he or she may appeal the decision to the ~~c~~City ~~c~~Council. The request for appeal must be made in writing within ~~ten~~10 days of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission's decision.

(b) City Council ~~council~~ review.
Following the filing of a notice of appeal, the ~~c~~City ~~c~~Council shall, within 30 days, conduct a review of the decision of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission denying the requested variance. In its review of the decision of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission to deny the requested variance, the ~~c~~City ~~c~~Council shall utilize the criteria set forth in ~~section~~ Sec. 62-191.

(c) Failure of ~~county~~ City Council to act.
An application for a variance is automatically granted if the ~~c~~City ~~c~~Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sections 62-193--62-210. Reserved

Article V. " Encroachments"

Division 1. "Generally"

Sections 62-211--62-230. Reserved

Division 2. "Encroachments Constructed Prior to February 12, 1990"

Sec. 62-231 Letter of encroachment.

When it has been determined that a building/structure encroachment into an easement or right-of-way has occurred prior to the effective date of C~~c~~hapter 130 (February 12, 1990) or prior to any subsequent ordinance amendments which affect the building setback line requirements, an owner or developer must

make application for a letter to encroach at the ~~office of p~~Planning and ~~d~~Development ~~s~~Services Department.

(a) An owner/applicant shall submit a complete application for the letter of encroachment. Submittal shall be made to the ~~office of p~~Planning and ~~d~~Development ~~s~~Services Department. The application shall consist of:

(1) A signed application from which shall state the name, address, and telephone number of the owner, representative and registered surveyor who prepared the survey;

(2) Fifteen copies of a plot plan of property highlighting the encroachment with surveyor's signature and seal;

(3) Fifteen copies of the surveyor's field notes describing the encroachment with surveyor's signature and seal;

(4) The nonrefundable fee; and

(5) Any explanatory information that the owner wishes to provide.

(b) The C~~c~~ity P~~p~~lanner, or his or her designee, shall review the data submitted, taking into consideration the requirements set forth in this article and all applicable ordinances and codes. The C~~c~~ity P~~p~~lanner, or his or her designee, shall submit the data to the City's Site Development Review Committee for review and recommendation.

(c) A letter of encroachment will be signed by the C~~c~~ity P~~p~~lanner, or his or her designee, after it has been determined that the applicable encroachments are not a detriment to the public health, safety or welfare of the citizens of the City. The signed letter will be officially recorded in the ~~p~~Planning and ~~d~~Development ~~s~~Services Department ~~office~~.

Sections 62-232--62-250. Reserved.

Division 3. "Use of Right-Of-Way"

Sec. 62-251 Special use license.

The City may grant a special use license for use of public right-of-way. The City, however, may cancel the license after the grantee has been given 90 days' notice. This provision shall not apply to right-of-way which is designated as county, state or federal highway or road.

(a) Types of uses.

Any one or more of the following activities, improvements, facilities or uses on public right-of-way may be granted a special use license:

(1) Aerial uses.

a. Temporary banners placed over streets; and

b. Other overhead encroachments not specified herein.

(2) Other uses.

a. Supportive or decorative columns, arches or other structural or decorative features;

b. Neighborhood gateway signs and landscaping;

c. Other surface encroachments not specified herein; and

d. Miscellaneous subsurface uses.

(3) Additional uses permitted in downtown.

a. An awning, canopy, marquee, or sign;

b. A sidewalk cafe containing removable chairs, planters or related materials.

(b) Exceptions.

Any use not covered under this subsection shall require a special use license to utilize the public right-of-way. The following activities, improvements, facilities or uses on public right-of-way shall not require a special use license as herein provided:

(1) City licensed or owned and maintained transit bus shelters and other related amenities for the convenience of the public;

(2) Trees and decorative landscaping, including landscaping, lighting, watering systems, and other appurtenances for the maintenance thereof, provided however, that when such landscaping is proposed on a public street having a right-of-way width of 60 feet or more, a landscaping plan shall be submitted to and approved by the Site Development Review Committee prior to its installation; and

(3) Uses such as but not limited to, newspaper racks, trash containers, and public utility facilities where the City has granted a franchise or lease permitting such use of the public right-of-way.

(c) Application.

The following shall be required of all applicants requesting a special use license:

(1) An application form completed and signed by the applicant and filed with the ~~office of p~~Planning and ~~d~~Development ~~s~~Services Department. The application shall set forth the following information:

a. The name, address and telephone number of the person or group seeking to use the public right-of-way;

b. The date the applicant proposes to use a public right-of-way;

c. A description of the proposed use of the public right-of-way; and

d. The nonrefundable filing fee.

(2) Fifteen copies of a plan of the area being requested for a special use license, showing all adjacent lot, easement, or other improvements contained on the public right-of-way and any and all improvements to be placed on such by the applicant; and

(3) A transmittal letter including specific information, special circumstances or conditions which apply to the request.

(d) Procedure.

(1) The submitted application and materials will be considered by the Site Development Review Committee which will approve or deny the request.

(2) In the event that the property on which the license is granted changes ownership, no certificate of occupancy may be granted until a new special use license is granted to the new owner or until the use is removed.

(e) Indemnification and insurance requirements.

(1) As a condition of the special use license, the licensee shall agree to indemnify, defend and hold harmless the City, its officers, agents, and employees from any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of

litigation for injury or death of any person, or for damage to any property, arising out of or in connection with licensee's use of public right-of-way.

(2) No special use license shall be granted unless the licensee files with the ~~p~~Planning and ~~d~~Development ~~s~~Services Department ~~office~~ a certificate of liability insurance as hereinafter set forth. If the policy is not kept in full force and effect throughout the term of the license, the special use license shall automatically become void and the encroachment must be removed at that time.

(3) The insurance policy shall be issued by an insurance company authorized to do business in the state and shall be reviewed by the ~~c~~City ~~a~~Attorney. The policy shall provide in substance that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents or employees and the insurance shall meet or exceed the following minimum amounts: $250,000.00 for each person and $500,000.00 for each single occurrence for bodily injury or death and $100,000.00 for each single occurrence for injury to or destruction of property. The minimum amounts of insurance coverage may be increased by the City when it is in the best interest of the public.

(4) The policy of insurance shall name both the licensee and the City as insurers to the full amount of the policy limits. Such policy shall inure to the benefit of a person in whose favor a judgment may be rendered, but may contain a provision that suit against the insurer may not be brought until the licensee has failed to pay the final judgment of a court of competent jurisdiction against him or her.

(5) The policy shall contain a provision that it may not be canceled, revoked or annulled by the insurer without giving the City ~~ten~~10 days prior written notice. The licensee shall not surrender or release such policy without filing in lieu thereof another policy complying with the requirements of the section, or surrendering the special use license.

(6) Neither the City nor any officer or employee thereof shall be liable for the financial responsibility of any insurer, or in any manner become liable for any claim, act, or omission, relating to the licensee's use of the public right-of-way.

Sections 62-252--62-270. Reserved.

Article VI. "Access and Off-Street Parking"

Division 1. "Generally"

Sec. 62-271 Scope and purpose.

The purpose of the regulations in this article is to promote the public health, safety and general welfare of the City's residents and motorists. These regulations are designed to promote safe access to City streets, to reduce road accidents, to protect public investment in streets, to establish a safe and reasonable balance between street access and traffic mobility, and to assure safe and convenient access to and circulation of emergency and service vehicles within developments. Further, they establish minimum design standards for access and parking lots and minimum requirements for off-street parking.

Sections 62-272--62-293. Reserved.

Division 2. "Access, Parking and Circulation Provisions"

Sec. 62-294 Texas Department of Transportation permits required.

No person, firm or corporation shall construct, reconstruct, alter or repair, remove or replace any sidewalk, drive approach or any concrete work on any TxDOT right-of-way within the City without first obtaining an approved TxDOT permit. This permit shall be submitted to the City for initial review and forwarded to TxDOT for final review and approval.

Sec. 62-295 General.

(a) Compliance with ordinances, regulations and plans.
Any person seeking access to lands abutting the public street right-of-way shall comply with these regulations and:

(1) The City's ~~s~~Subdivision ~~development o~~Ordinance.

(2) The City's ~~comprehensive~~ Z~~z~~oning O~~o~~rdinance.

(3) Other applicable City regulations, codes or ordinances.

(4) Comprehensive plans or plan components.

(5) Texas Manual on Uniform Traffic Control Devices.

(6) City's design guideline standards.

(7) City's engineering standards, specifications, and details.

(b) Downtown ~~d~~Districts and home occupations.
These regulations shall not apply to developments located within the ~~d~~Downtown ~~d~~Districts nor to home occupations.

(c) Sidewalk requirement.
Any site plan requiring a full review by the Site Development Review Committee will require the design and construction of typical concrete sidewalks in accordance with City design standards on all existing and proposed curb and gutter streets adjacent to or included in the proposed site plan.

(d) Payment to special fund in lieu of sidewalk construction.

(1) A developer or property owner responsible for construction of a sidewalk under ~~subsection~~ Sec. 62-295(c) may, on approval of the City Engineer, elect to meet that requirement in whole or in part by a cash payment in lieu of actual construction on the ground. Such payments shall be made by submitting a cashier's check after the time of final plat approval but prior to the time the plat is recorded with the county clerk's office.

(2) The requirement shall be met by a fee in lieu of construction at a rate set at the current rate of construction per square foot or square yard of sidewalk built to adopted City standards at the time of application. Such rate shall be determined by the City surveying local construction bid prices, TxDOT bid prices and/or any other available bid price information. The bid price survey shall be conducted on an annual basis or more frequently as determined by City staff. The bid price survey shall be conducted by the Transportation Services Department manager or his/her designee. The results of the survey will be filed and made available for public access in the offices of the Planning and Development Services Department. Based on the findings of the bid price survey the fee rate shall be established by agreement between the Transportation Services Department manager and the City Engineer.

(3) Fee payments made under this section may be used only for construction of a new sidewalk or repair and maintenance of an existing sidewalk located within the same ~~c~~City ~~c~~Council single member district within which a majority of the land area of the development that required construction of a sidewalk under Sec. 62-295(c)~~subsection (c)~~ is located.

(4) Fee payments made under this section may be used only for construction of a new sidewalk or repair and maintenance of an existing sidewalk located within the same City Council single member district within which a majority of the land area of the development that required construction of a sidewalk under ~~subsection or~~ Sec. 62-295(c) is located.

(e) Special fund created and right to refund.

(1) There is hereby established one special fund for the deposit of all sums paid in lieu of sidewalk construction under this section. These funds shall be established maintained and utilized by the City's Transportation Services Department.

(2) The City shall account for all sums paid in lieu of sidewalk construction under this section with reference to the individual plats or projects involved. Any funds paid for such purposes must be expended by the City within ~~ten (10)~~ 10 years from the date received for development of a sidewalk as defined herein. Such funds shall be considered to be spent on a first in, first out basis. If not so expended, the developer of the property on the last day of such period shall be entitled to a pro rata refund of the sum paid. The developer must request entitlement within one (1) year of entitlement to refund, or such right to a refund shall be waived. Refunds shall include any accrued interest minus one percent administrative costs

Sec. 62-296 Access standards.

(a) General principles.

(1) Nonresidential parking areas shall be designed to not allow backing of vehicles into a public street.

(2) Access facilities shall be located and designed with respect to both the public street and the on-site circulation to provide maximum safety and to minimize interference with street traffic. To ensure this, the Site Development Review Committee may require a traffic study be performed.

(3) The property owner shall do all work and pay all costs in connection with the construction of access driveways and their appurtenances on the right-of-way.

(4) Temporary or permanent nonpublic all-weather drive surfaces will be required at the beginning of construction for emergency access or turnaround for emergency vehicles. The minimum standards for this surface shall consist of four inches of limestone base with a one-course seal coat in accordance with the City standards and specifications.

(5) Driveway entrances must be able to accommodate all vehicle types having occasion to enter the site, including delivery vehicles.

(6) Access to TxDOT facilities shall also comply with all TxDOT standards.

(7) No single-family dwelling, townhouse, or duplex unit may take direct access to arterial streets or collector streets if the property can be accessed by a local street. If it can only be accessed by an arterial or collector street, then adequate maneuvering space must be provided, as vehicles will not be allowed to back directly into these streets.

(8) Access from a nonresidential development to a local street shall be discouraged when the primary use of the local street is access to and from residences.

(b) Driveway design.

All connections shall meet the following standards, as noted on the drawing below for clarification:

(1) Adjacent left, adjacent right, and opposite right corner clearance and commercial driveway spacing is determined by the functional classification of the street as follows (where raised medians are present, the spacing~~s~~ can be reduced by 20~~ percent~~%):

a. Major arterials, 275 feet.

b. Minor arterials, 230 feet.

c. Collectors, 185 feet.

d. Locals, 150 feet.

(2) Opposite left corner clearance and commercial driveway spacing is determined by the functional classification of the street as follows (where raised medians are present, the spacing~~s~~ can be reduced by 20~~ percent~~%):

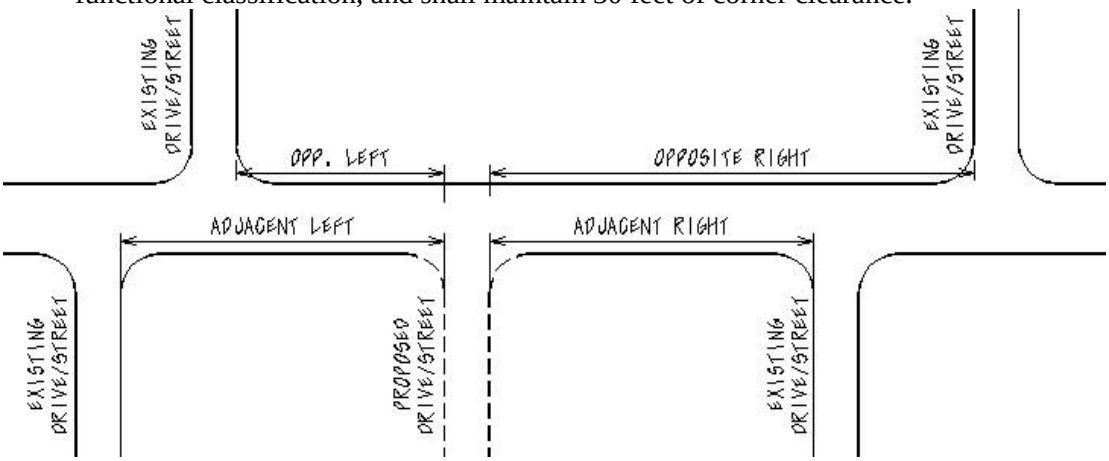
a. Major arterials, 125 feet.

b. Minor arterials, 125 feet.

c. Collectors, 90 feet.

d. Locals, 75 feet.

(3) Single-family residence, duplex, and townhouse driveway spacing are exempt from the functional classification, and shall maintain 30 feet of corner clearance.



(4) In the event that a particular parcel or parcels lack sufficient thoroughfare frontage to maintain the desirable spacing, the landowner have one of 3 options:

a. In cases where a property owner desires multiple access points that do not meet minimum spacing requirements, or when the property owner requests access to a street other than the one approved by the Site Development Review Committee, they may seek a variance from the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission for minimum spacing, number, and/or location. Staff shall include in its report a recommendation from the Site Development Review Committee.

b. The adjacent landowners may agree to establish a common driveway. Common driveways shall meet the standards set forth herein. Approval shall be conditional upon

submittal of a perpetual joint use agreement which complies with the requirements set forth in this article.

c. In cases where a property cannot meet the desirable spacing and currently has no improved access to the site, the City will not deny the property owner an access point. However, the access must be located in such a place to minimize safety concerns.

(5) Specifications for construction of access aprons shall be equal to or exceed the specifications for the existing street and be in accordance with the rules, regulations and standards for subdivision construction in the City.

(6) Driveways shall be designed to drain so that street drainage is contained within the street, storm sewer or appropriate drainageway in order to ensure protection to the private property. Typically, this is achieved by constructing the drive such that the elevation of the driveway at the property line is at least as high as the top of curb.

(c) Minimum curb return radius standards.

Minimum curb return radius standards (measured face-to-face) in accordance with AASHTO design standards:

(1) Single-family residential, 2 feet.

(2) Multifamily residential, 15 feet.

(3) Commercial, 25 feet.

(4) Industrial, 25 feet.

(d) One-way access standards (width):

(1) Single-family residential, 12--25 feet.

(2) Multifamily residential, 15--24 feet.

(3) Commercial, 15--29 feet.

(4) Industrial, 15--29 feet.

(e) Two-way access standards (width):

(1) Single-family residential, 12--25 feet.

(2) Multifamily residential, 25--40 feet.

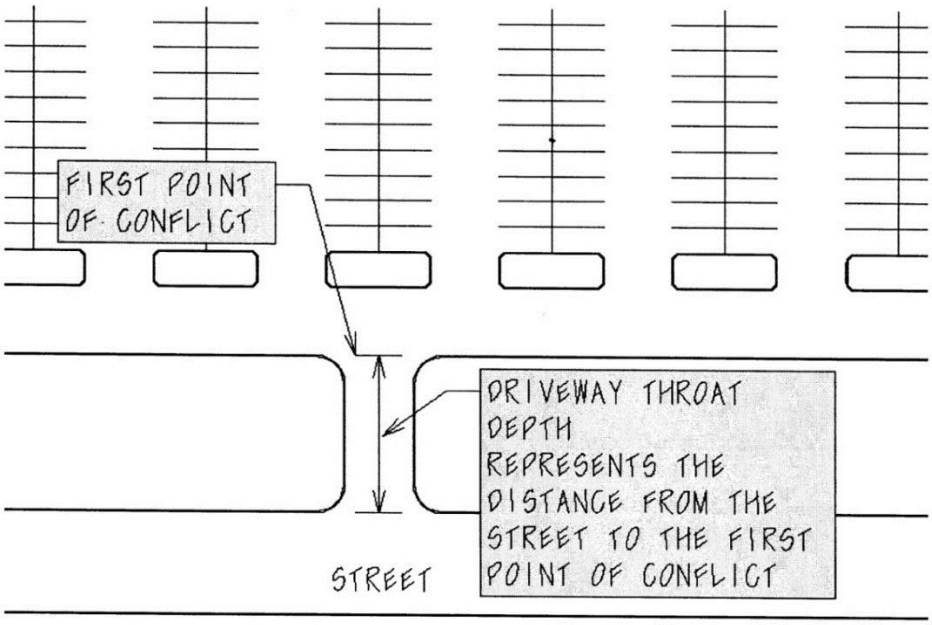
(3) Commercial, 25--50 feet.

(4) Industrial, 30-foot minimum.

(f) Throat depth:

	Unsignalized	**Signalized**
Major Arterial:		
(1 lane in, 1 lane out)	50'	75'
(1 lane in, 2 lanes out)	50'	75'
(2 lanes in, 3 lanes out)	N/A	200'
(2 lanes in, 4 lanes out)	N/A	300'
Minor Arterial:		
(1 lane in, 1 lane out)	50'	75'

	Unsignalized	Signalized
(1 lane in, 2 lanes out)	50'	75'
Collector	30'	50'



Sec. 62-297 Parking and circulation.

(a) General principles.

(1) In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building for development. The minimum parking requirements herein specified are considered minimum requirements and shall be exceeded where usage, experience or design information makes such increase appropriate.

(2) Required off-street parking areas shall not be used for the commercial sale, repair, dismantling, servicing, storage or display of vehicles, equipment, materials, supplies or merchandise.

(3) Where open land is used for manufacturing, storage, or other operations in a manner similar to indoor operations, such open land shall be added to floor space in determining the number of parking spaces required.

(4) All off-street parking spaces shall be accompanied by adequate automobile maneuvering area permitting full and direct ingress and egress to such parking spaces. The maneuvering area thereto shall be located entirely upon private property, except that the unobstructed width of an abutting alley may be considered for maneuvering area.

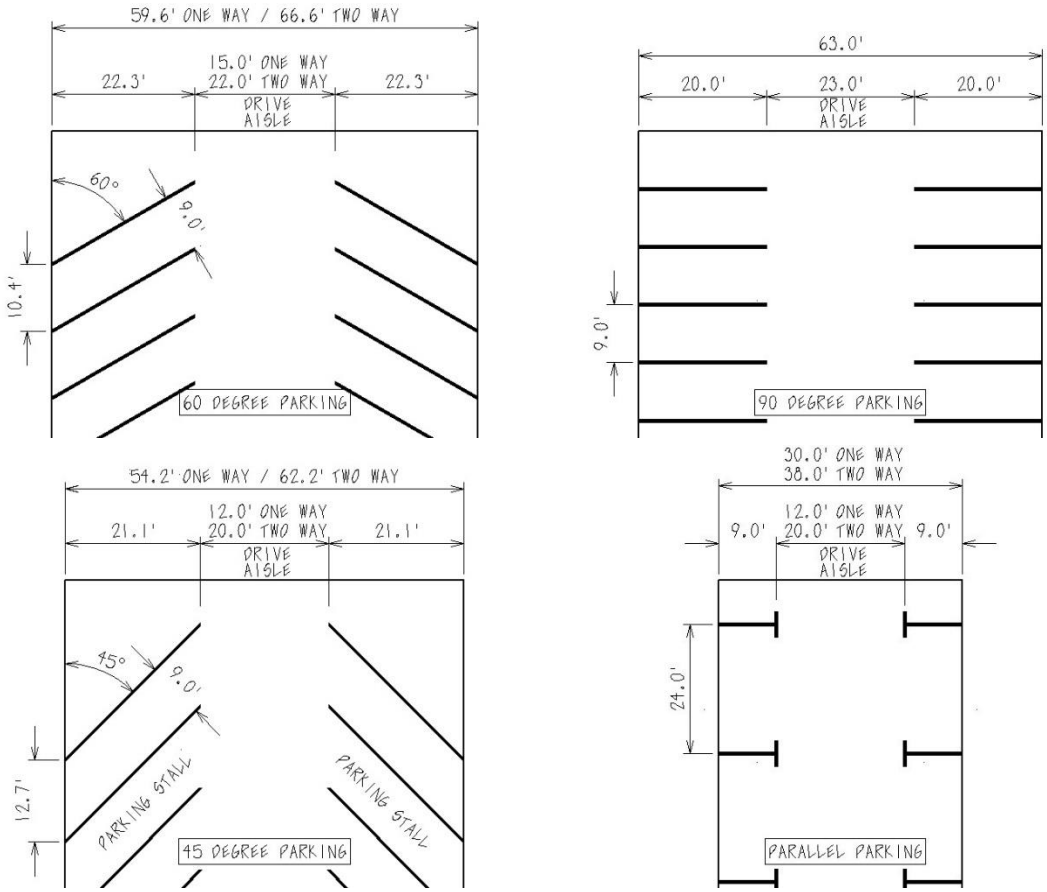
(5) All off-street parking spaces and accompanying maneuvering areas specifically designed for vehicles with a wheel base of passenger car design standard shall have an all-weather surface. The all-weather surface shall be composed of asphalt or Portland cement pavement or a penetration surface so as to provide a durable, dustless surface. All off-street parking spaces and accompanying maneuvering areas specifically designed for vehicles with a wheel base greater than passenger car design standards may be composed of gravel. All off-street parking

areas shall be so graded and drained as to dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide the orderly and safe loading or unloading, parking and storage of vehicles.

(6) No requirement set forth in this article shall be construed to prevent collective utilization of any off-street parking facility for two or more buildings or uses, providing, however, that the total number of off-street parking spaces shall not be less than the sum of the requirements for the particular individual uses computed separately in accordance with the applicable regulations for off-street parking spaces.

(b) Parking area design.

The design of 45-degree, 60-degree, 90-degree, and parallel parking areas shall conform to the standards shown below. These requirements are measured from wall-to-wall. An 18-foot paved space (90-degree only) may be utilized where the space abuts a landscaped island with a minimum depth of four feet. An 18-foot space may also be used when adjacent to a sidewalk provided that the minimum width of the sidewalk is ~~six~~6 feet.



(c) Striping and marking.

All striping for parking stalls shall be a minimum of four inches wide of white safety traffic paint designated for such use. All other markings required to designate crosswalks, directional arrows, fire lanes, handicap spaces, or service areas shall be in compliance with the Texas Manual on Uniform Traffic Control Devices.

(d) Handicap parking and access.

All handicap parking spaces and access shall be in accordance with the Texas Accessibility Standards.

(e) End islands.

An end island shall be required at the end of each parking row. The island shall have raised curbing not less than ~~six~~6 inches in height and encompass an area of not less than 180 square feet for single parking row end islands or 360 square feet for double single row end islands.

(f) Dividers.

Bay dividers shall be provided in order to prevent uncontrolled movement across parking areas, to separate the parking area from the adjacent property, and to increase the safety of individuals using the lot. Dividers shall be provided on every other parking row and conform to one of the following standards:

(1) Wheel stops shall be made of concrete and/or approved materials not less than ~~six~~6 inches in height and ~~six~~6 feet in length and shall be anchored and placed in the center of each parking stall 2 1/2 feet behind the front of the parking space.

(2) Raised dividers shall have raised ~~six~~6-inch curbing and be a minimum of ~~five~~5 feet in width measured from face of curb to face of curb and tie in with the end island.

(3) Raised dividers that are landscaped shall have raised ~~six~~6-inch curbing and be a minimum of seven feet in width and tie in to the end island.

(g) Traffic control signs.

All traffic control signs required for the site shall meet the standards established in the Texas Manual on Uniform Traffic Control Devices.

(h) Off-site parking.

All parking spaces required by this article shall be located on the same property as the structure they serve, except where an enlargement or change in use increases the required number of spaces. In such cases, off-site parking may be allowed and must conform to the following standards:

(1) The off-site parking area must be on adjacent property to the property served or within 100 feet of the structure they serve if not located on the property adjacent to the site.

(2) Access to off-site parking shall not interfere with the normal movement of traffic along adjacent arterials or collectors, as specified in the major thoroughfare plan, nor as to endanger pedestrians moving between the parking area and the structure served. Off-site parking is not allowed in any area that would require a pedestrian to cross an arterial street.

(3) To discourage the use of thoroughfares by circulating vehicles, provisions for circulation between adjacent parcels shall be provided through coordinated or joint parking systems.

(4) The off-site parking area shall remain in use as long as the parking requirement exists or until such time that adequate on-site parking is provided. In any case where required parking spaces are not located on the same property with the activity or establishment, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the ~~c~~City ~~a~~Attorney filed with the county and submitted with the application for site plan approval.

(i) Amount of parking required.

(1) Rules for computing the parking requirement.

a. Where fractional spaces result, the parking spaces required shall be construed to be the next largest whole number.

b. The parking space required for a use not specifically mentioned herein shall be the same as required for a similar use.

c. A parking analysis shall be required for each development and shall be a part of the site plan submittal. It shall include the number of employees, number of parking spaces provided, number of spaces required with proper calculations, square footage of each structure and the use of each structure. When necessary, an additional traffic impact analysis may be required to determine the impacts of a development on the off-site public street system.

(2) Minimum parking requirements.

a. Residential.*

***Note:** The single-family requirements only apply to new residential construction. Enclosure of a garage or a room addition would not be required to add parking if they can accommodate two vehicles in their driveway. In the case where only one space is provided, an additional space will be required or a variance must be obtained.

1. Single-family dwelling:

   (i) 1--2 bedrooms: 2 spaces required.
   (ii) 3--4 bedrooms: 3 spaces required.
   (iii) 5 or more bedrooms: 4 spaces required.

2. Duplex and quadruplex: 1 per bedroom.

3. Apartments: 1 per bedroom.

4. Boardinghouse: 2 spaces per dwelling unit, plus 1 for every 2 roomers.

5. Manufactured home park: see Chapter 130~~, Zoning~~.

6. Hotel or motel:

   (i) One per guestroom,
   (ii) One for every 400 square feet of public meeting space

b. Institutional and special uses.

1. Church: 1 per 2 seats in the sanctuary.

2. College or university: 1 per faculty and staff, plus 0.5 per resident and commuter student.

3. Public community, health, or welfare center: 1 per 250 square feet of gfa.

4. Day camp, kindergarten, or day nursery: 1 per 6 pupils, plus 1 per 2 staff members.

5. Fraternity or sorority house: 1 per residence, plus 1 for every 2 additional active members.

6. Hospital: 1.5 per bed.

7. Institution, religious, charitable, or philanthropic organizations: 1 per 200 square feet of gfa.

8. Trade schools, 1 per 200 square feet of gfa.

9. Nursing or convalescent homes: 1 per 5 beds, plus 1 for each day staff member.

10. Institutional home for the elderly: 1 per 5 residence units, plus 1 per each day staff member.
11. Residence home for the elderly: 1 per dwelling unit.
12. Place of public assembly: 1 per 50 square feet of gfa.
13. School, elementary: 1 per 20 students.
14. School, middle: 1 per 15 students.
15. School, high: 1 per 3 students.
16. Lodge or fraternal organization: 1 per 100 square feet of gfa.

c. Food and beverage services.

1. Drive-in, fast food, or take-out (service to auto): 8, plus 1 per 50 square feet of seating area
2. General restaurant or cafeteria (no service to auto): 1.25 per 100 square feet of gfa, plus spaces for banquet rooms

d. Office, professional, or financial uses.

1. Bank or savings and loan office: 1 per 300 square feet of gfa.
2. Clinic or doctor's office: 1 per 200 square feet of gfa.
3. General office: 1 per 300 square feet of gfa.
4. Dance, drama, or music studio: 1 per 200 square feet of gfa.

e. Personal service and retail uses.

1. Personal service establishments: 1 per 200 square feet of gfa.
2. Retail stores/shops in buildings: 1 per 250 square feet of gfa.
3. Shopping centers: 1 per 200 square feet of gfa.
4. Outdoor retail sales: 1 per 400 square feet of site area.

f. Recreation, social, and entertainment uses.

1. Commercial amusements: 1 per 100 square feet of enclosed gfa.
2. Bowling alley: 6 per lane.
3. Theater: 1 per 5 seats.
4. Night club: 1 per 100 square feet of gfa.

g. Motor vehicle and machinery uses.

1. Carwash: 1 per 500 square feet of gfa.
2. Automobile sales:
   (i) 1 per 400 square feet enclosed space.
   (ii) 1 per 2,000 square feet outside display area.
3. Auto repair, garage, or shop: 1 per 200 square feet of gfa.
4. Machinery sales, repair--indoor: 1 per 500 square feet of gfa.

5. Machinery sales, repair--outdoor: 1 per 2,000 square feet of gfa.

h. Storage, wholesale, and manufacturing uses.

1. Brick or lumberyard: 1 per 2,000 square feet of site area.
2. Storage of sand, gravel, petroleum products, etc.--outdoor: 1 per 2,000 square feet of site area.
   (i) Wholesale or manufacturing operation: 1 per 1,000 square feet of gfa or 1 per each 2 employees on the larger shift.
3. Warehouse and enclosed storage: 1 per 600 square feet of gfa.
4. Mini-storage complex: 1 per 30 square feet of office area.

Sections 62-298--62-327. Reserved.

Division 3. "Loading and Unloading Areas"

Sec. 62-328 Location.

(a) Loading and unloading areas shall be located so as not to restrict or interfere with the normal movement of pedestrians and vehicles along streets, sidewalks or in parking areas. Driveway placement shall be such that loading and unloading activities will in no way hinder vehicle ingress or egress.

(b) Areas designated for the loading and unloading of people shall be physically separate from areas designated for the loading and unloading of freight or goods not carried by people embarking/disembarking from a vehicle. Such physical separation will preclude use of a loading/unloading area by the other activity.

Sec. 62-329 Screening.

Loading and unloading areas shall be screened from parking areas and adjacent properties by a solid visual barrier not less than ~~six~~6 feet in height. Loading and unloading areas for people are not required to be screened from parking areas and adjacent properties.

Sec. 62-330 Child care facilities.

Child care centers, kindergartens and other child care facilities shall be required to provide a loading/unloading area, separate from the parking area and as close to the main entrance as possible. The loading/unloading area shall have one-way movement.

Sec. 62-331 Solid waste disposal.

(a) Dumpsters, when used, shall be placed on concrete dumpster pads ~~six~~6 inches in thickness, 12 feet in width and ~~ten~~10 feet in depth. The dumpster pad for a metal side loading container shall be nine feet in width and ~~six~~6 feet in depth. A 300 or 90 gallon pad site shall be 3 feet in width and 3 feet in depth.

(b) The pad shall have a ~~six~~6-foot visual screen on 3 sides with the fourth side remaining open for access or be fitted with a gate matching the screening on the other 3 sides.

Sections 62-332--62-350. Reserved.

Division 4. "Sight Distance Requirements"

Sec. 62-351 Sight obstruction standards for streets, alley corners and access points.

(a) Through adoption of this article, the City has adopted the sight distance standards and criteria as set forth in A Policy on Geometric Design of Highways and Streets developed by the American Association of State Highway and Transportation Officials, latest edition.

(b) It shall be unlawful for any person to place or maintain or cause or allow to be placed or maintained any plant, tree, fence, object or vehicle in such a position on a corner lot in the City such that a driver of a vehicle cannot see down the intersecting streets the distance specified in ~~subsection (a) of this section~~Sec. 62-351(a).

(c) It shall be unlawful for any person to place or maintain within the sight distance triangle any plant or object having a height greater than 30 inches above the level of the center of the nearest abutting street. Further the area of clear vision shall continue to a height not less than 13 1/2 feet above the street level or to such height necessary to provide an unobstructed view of the intersection as specified in Sec. 62-351(a)~~subsection (a) of this section~~.

Sec. 62-352 Obstruction of rights-of-way prohibited.

(a) It shall be unlawful for any person to place, maintain, permit or cause to be placed or maintained any tree, shrub, or plant of any kind or vehicle of any kind on or across public right-of-way as to:

(1) Obstruct passage on or use of that area by the public.

(2) Create a hazard to persons using the right-of-way.

(3) Restrict drainage flow.

(b) All parts of any vehicles parked adjacent to a public street or other public right-of-way shall be parked entirely on private property, shall not extend into the public right-of-way and shall be in observance of sight obstruction standards. Curbs or guideposts shall be installed as necessary to prohibit vehicle parking in the public right-of-way.

Sec. 62-353 Sight obstruction standards for fire hydrants.
It shall be unlawful for any person to place or maintain any plant, tree, fence or object that would visually obstruct the location of a fire hydrant from the public right-of-way.

Sections 62-354--62-379. Reserved.

Division 5. "Variances"

Sec. 62-380 Granting.

(a) Planning and ~~zoning commission~~ Zoning Commission authorization.
The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may authorize a variance from the regulations in this article when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings ~~herein below~~ required by Sec. 62-380(c), the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and expected type and volume of traffic.

(b) Conditions for granting.
No variance shall be granted unless the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission finds that all of the following are met:

(1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his or her land;

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

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

(4) That the granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this article.

(c) Findings of ~~p~~Planning and ~~z~~Zoning ~~c~~Commission.
Such findings of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Requests to be in writing.
All requested variances from this article shall be made in writing at least ~~ten~~10 working days prior to the date on which consideration is to be given by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. Submittal shall be made in the ~~office of~~ Planning and ~~d~~Development ~~s~~Services Department.

Sec. 62-381 Appeals.

(a) Request; ~~c~~City ~~c~~Council review.
If the applicant should disagree with the action of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, he or she may appeal the decision to the ~~c~~City ~~c~~Council. The request for appeal must be made in writing within ~~ten~~10 days of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission's decision. Following the filing of a notice of appeal, the ~~c~~City ~~c~~Council shall, within 30 days, conduct a review of the decision of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission denying the requested variance. In its review of the decision of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission to deny the requested variance, the ~~c~~City ~~c~~Council shall utilize the criteria set forth in ~~section~~ Sec. 62-380.

(b) Failure of ~~c~~City ~~c~~Council to act.
An application for a variance is automatically granted if the ~~c~~City ~~c~~Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sections 62-382--62-405. Reserved.

Article VII. "Landscaping"

Division 1. "Generally"

Sec. 62-406 Scope and purpose.

Landscaping is required of all development that requires a full site plan review except single-family, patio home, townhouse, and duplex uses.

Sec. 62-407 Application of article.

(a) The landscaping requirements of this article shall apply to all land located in the City and proposed for other than single-family or duplex development. Such landscaping requirements shall become applicable as to each individual lot at such time as an application for a building permit on such lot is made. All landscaping requirements under this article shall run with the land and their application shall apply to any owner or subsequent owner.

(b) Each phase of a phased project shall comply with the requirements of this article. The portion left for subsequent phases shall remain of developable size and quality. No certificate of occupancy for the current phase or no building permit shall be issued for a subsequent phase of a project until all requirements of this article have been met. In order to issue a certificate of occupancy on a project in which landscaping improvements are required, the developer may either install the landscaping to the approval of the City or submit a letter of credit. In addition to the letter of credit, the owner shall provide a letter granting the City the right to install the required landscaping.

(c) When the requirements of this article conflict with requirements of other provisions of this Code, this article shall prevail; provided however, that the provisions of this article shall be subordinate to regulations pertaining to traffic and pedestrian safety.

Sections 62-408--62-427. Reserved.

Division 2. "Requirements"

Sec. 62-428 Site plan requirements.

(a) When a full site plan review by the Site Development Review Committee and/or the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission is required, the site plan shall additionally contain the landscaping information listed below and also be referred to as the landscape plan:

(1) The location, quantity, size, common name, and scientific name of proposed landscaping in proposed landscaped areas;

(2) The location, quantity, size, common name, and scientific name of existing trees;

(3) The location of the proposed irrigation system or hose connections; and

(4) Information necessary for verifying whether the minimum required landscaping requirements have been met.

(b) The regulations in this article shall not apply to development located within the D~~d~~owntown D~~d~~istrict. All landscape and streetscapes shall be in accordance with the approved downtown master plan.

Sec. 62-429 Landscaping requirements.

(a) Building site.

(1) Area requirements.

a. An area equal to 15~~ percent~~% of the developed area (building site) shall be required to be landscaped. A lot shall not exceed a total of 90~~ percent~~% impervious lot coverage. The developed area shall include the main structure, any accessory structure, parking lots, equipment lots, and outside storage areas. Landscaping shall be located to the front and sides of the parcel in those portions of the developed area facing public rights-of-way. Where screening is required along a public street, landscaping shall be placed between the screening and the street. The combination of trees, shrubs, and groundcover shall be used in fulfilling the landscaping requirements. Where open storage of materials, commodities, or equipment permitted in the "I" ~~i~~Industrial ~~d~~Dictrict~~s~~, encompass one acre or more, not including any structures, the area to be landscaped shall be reduced to ~~five~~ 5%~~percent~~ of the developed area. Landscaping shall be placed to the exterior of the screening fence, or be an integral part of the screening fence, and to the front and sides of the parcel in those portions of the developed area facing public rights-of way. The combination of trees, shrubs, and groundcover shall be used in fulfilling the landscaping requirements.

b. Not less than 50~~ percent~~% of the area to be landscaped shall be planted in trees.

c. Not less than 50~~ percent~~% of the trees planted in the area to be landscaped shall be canopy trees. Canopy trees shall include those species whose mature crown height is 30 feet or more in height. Noncanopy trees shall include those species whose mature crown height is at least 15 feet in height.

(2) Trees.

a. Trees to be planted shall be ~~six~~6 feet or more in height and measure a minimum of 1 1/2 inches in caliper when measured 12 inches from the base of the trunk or top of the ball. If smaller caliper trees are desired, 15 sf points shall be granted for each. This requirement also applies to all future building additions.

b. Existing trees used for landscape credit must have a minimum trunk diameter of 4 1/2 inches or larger and be in a healthy physical state. Should existing trees used for landscape credit die, they shall be replaced with new trees according to the requirements of ~~subsection (a)(2)c of this section~~Sec. 62-429(a)(2)c. Existing trees with a trunk diameter less than 4 1/2 inches may be given the same landscape credit as that given newly planted trees with similar characteristics.

c. Square feet of coverage shall be granted in the following amounts for container trees. If noncontainer trees are to be used, subtract 50 points.

1. Existing canopy trees protected during construction: 225 square feet.
2. Newly planted canopy trees, 1 1/2 inches to 3 inches: 200 square feet.
3. Newly planted canopy trees, greater than 3 inches: 350 square feet.
4. Existing noncanopy trees protected during construction: 100 square feet.
5. Newly planted noncanopy trees, 1 1/2 inches to 3 inches: 150 square feet.
6. Newly planted noncanopy trees, Greater than 3 inches: 225 square feet.

(3) Shrubs and planting beds.

a. Less than 2 gallons, 5 square feet;

b. 2 gallons--Up to 15 gallons, 10 square feet;

c. 15 gallons and larger, 15 square feet;

d. Planting beds used and maintained for the purpose of rotating live decorative planting materials shall be granted a credit of one square foot for each square foot of bedding area.

(4) Grasses and groundcovers.
Complete coverage by grass, live groundcover, and/or nonvegetative groundcover approved by the City is required in those areas not covered by trees or shrubs. Ten square feet will be granted for every 100 square feet of grass or live groundcover. This amount shall not exceed 15~~ percent~~% of the overall landscaping required.

(b) Parking areas.

(1) Trees.
Trees are required for every parking lot end island regardless of the number of trees required by ~~subsection (a)(1) of this section~~Sec. 62-429(a)(1). Other appropriate landscape materials may replace trees in some parking islands. Substituted trees must be planted elsewhere on site. Trees to be planted shall be a minimum of two inches in caliper when measured 12 inches from the base of the trunk or top of the ball.

(2) Shrubs, grasses, and live groundcovers.
The remainder of all parking lot islands shall be fully landscaped with shrubs, grass, live groundcovers, and/or nonvegetative groundcover approved by the City. When grass is used, 100~~ percent~~% live grass groundcover and/or live groundcover is required, whether by solid sod overlay or preplanting and successful takeover of grass and/or planting of live groundcover. Any shrubs used shall constitute partial fulfillment of the requirements of Sec. 62-429(a)(1)~~subsection (a)(1) of this section~~.

(3) Screening.
A decorative wall or landscaped earth berm at least two feet in height, or dense shrubbery having year-round foliage at least 3 feet in height, is required as a visual buffer along street frontages in the following circumstances:

a. Where outdoor parking areas are located within 30 feet of any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(c) Freestanding on-premises signs.

(1) Landscaping shall be provided for an area extending a minimum four linear feet in all directions from the support of all freestanding on-premises signage. In the event that the signage has more than one support, the landscaped area shall be extended between the supports at a width of not less than four feet. This landscaping shall constitute partial fulfillment of the requirements of Sec. 62-429(a)(1)~~subsection (a)(1) of this section~~.

(2) The landscaped area shall be composed of a minimum of 50~~ percent~~% shrubs. The remainder of the landscaped area shall have 100~~ percent~~% live grass groundcover and/or live

groundcover whether by solid sod overlay or preplanting and successful takeover of grass and/or planting of live groundcover.

(d) General.

(1) Trees recommended for use in the Brazos Valley are identified on the tree species list and may be used to meet these requirements. Other species may be used upon review and approval of a landscape plan. Native species that conserve water and have reduced maintenance requirements are suggested for use in landscaping plans.

(2) All required landscaping shall be irrigated by either an underground sprinkler system, or hose attachment within 150 feet of all landscaping.

(3) All landscaping shall comply with the sight distance requirements of Article VI ~~as defined in article VI of this chapter~~.

(4) Parking of vehicles shall not be allowed on approved landscaped areas or on landscaped areas for projects which were built prior to this article. Parking of vehicles on landscaped areas shall be considered a violation of this article, subject to the general penalty provisions of this article.

(5) Artificial plant materials are prohibited.

(6) Landscaping plans utilizing special or unusual arrangements of plants and other landscaping materials as part of an overall site design, shall prepare an alternative landscape plan including reasons supporting the need for an alternative plan.

(7) Nonvegetative groundcovers permitted by this article may include but is not limited to washed gravel, bark mulches, lava rock, sand, rock, or other decorative covers used in landscaping.

(8) Credit may be given for landscaping placed in the public right-of-way only with the approval of the Site Development Review Committee and, in the case of right-of-way controlled by the state, the approval of the state department of transportation. Landscaping placed in the public right-of-way shall conform to the provisions of Article VI ~~article VI of this chapter~~ regarding sight distance and not create a safety hazard.

(9) Variations to the requirements of this article may be approved if the landscape plan is sealed by a registered landscape architect. Such plans must show reasonable evidence that the requirements as set forth in this article were used as a guide.

Sec. 62-430 Redevelopment.

Any development existing, occupied, and in use at the time of passage of the ordinance from which this article is derived may continue to be so until such time the site undergoes a change of use, change of ownership, change of tenant, voluntary improvement, substantial reconstruction, conversion, structural alteration, relocation, or enlargement. At that time, an area equal to ~~eight~~ 8 ~~percent~~ %of the developed area (building site) shall be required to be landscaped. All square foot points shall follow ~~section~~Sec. 62-429.

Sec. 62-431 Tree policy.

No trees other than those species listed as a noncanopy tree on the approved tree list may be planted under or within ~~ten~~10 lateral feet of an overhead utility wire, or over or within ~~five~~5 lateral feet of any public underground water line, sewer line, or other utility.

Sec. 62-432 Completion and extension.

(a) The C~~c~~ity P~~p~~lanner and/or his or her designee shall review all landscaping for compliance with this article and approve the landscape plan. Landscaping shall be completed in compliance with the plan before a certificate of occupancy is issued. In the event placement of landscaping materials is not practicable at the time the certificate of occupancy is requested, a placement schedule will be submitted for approval prior to issuance of the certificate of occupancy. Failure to meet the placement schedule and place the required landscaping materials as shown on the approved landscape plan shall constitute a violation of this section of the Z~~z~~oning O~~o~~rdinance subject to the general penalty provisions of City Code Sec. 1-14~~general penalty found in section 1-14~~.

(b) Replacement of dead landscaping must occur within 90 days of notification. Replacement material must be of similar character as the dead landscaping. Failure to replace dead landscaping, as required by the zoning official, or his or her designee, shall constitute a violation of this article subject to the general penalty provisions of City Code Sec. 1-14~~provided in section 1-14~~.

Sections 62-433--62-462. Reserved.

Division 3. "Variances"

Sec. 62-463 General.

(a) Planning and ~~zoning commission~~ Zoning Commission authorization.
The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may authorize a variance from the regulations in this article when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall prescribe only conditions that it deems necessary to or desirable in the public interest.

(b) Conditions for granting.
No variance shall be granted unless the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission finds that all of the following are met:

(1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his or her land;

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

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

(4) That the granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this article.

(c) Findings of ~~p~~Planning and ~~z~~Zoning ~~c~~Commission.
Such findings of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Request to be in writing; submission.
All requested variances from this article shall be made in writing at least ten10 working days prior to the date on which consideration is to be given by the pPlanning and zZoning cCommission. Submittal shall be made in the Planning and dDevelopment Sservices officeDepartment.

Sec. 62-464 Appeals.

(a) Deadline for appeal.
If the applicant should disagree with the action of the pPlanning and zZoning cCommission, he or she may appeal the decision to the cCity cCouncil. The request for appeal must be made in writing within ten10 days of the pPlanning and zZoning cCommission's decision.

(b) City council Council review.
Following the filing of a notice of appeal, the cCity cCouncil shall, within 30 days, conduct a review of the decision of the pPlanning and zZoning cCommission denying the requested variance. In its review of the decision of the pPlanning and zZoning cCommission to deny the requested variance, the cCity cCouncil shall utilize the criteria set forth in section Sec. 62-463.

(c) Failure of cCity cCouncil to act.
An application for a variance is automatically granted if the cCity cCouncil does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sections 62-465--62-481. Reserved.

Division 4. "Tree List"

Sec. 62-482 Tree list.

The City's tree list is as follows:

(a) Canopy trees ("shade trees").

Common Name	**Botanical Name**
River Birch	Betula nigra
Pecan	Carya illinoesis
Southern Catalpa	Catalpa bignonoides
Hackberry	Celtis occidentalis
Ash	Fraxinus sp.
Eastern Red Cedar	Juniperus virginiana
Chinaberry	Melia azedarach
White Mulberry	Morus alba
Chinese Pistache	Pistacia chinensis
Sycamore	Platanus occidentalis
Cottonwood	Populus deltoides
'Bradford' Pear	Pyrus calleryana 'Bradford'
Bur Oak	Quercus macrocarpa

Common Name	Botanical Name
Water Oak	Quercus nigra
Willow Oak	Quercus phellos
Live Oak	Quercus virginiana
Weeping Willow	Salix babylonica
Chinese Tallow	Sapium sebiferum
Bald Cypress	Taxodium distichum
American Elm	Ulmus americana
Cedar Elm	Ulmus crassifolia
Lacebark Elm	Ulmus parvifolia
Chinese Elm	Ulmus pumilaa

(1) Canopy trees ("shade trees") should achieve a mature crown height greater than 20 feet.

(2) Other species not listed above may also satisfy canopy tree requirements. Any tree selected must be regionally acclimated and perform well under local conditions (e.g., soil, water, climate, etc.)

(b) Noncanopy trees ("ornamental trees").

Common Name	Botanical Name
Mimosa	Albizia julibrissin
Texas Buckeye	Aesculus arguta
Red Bud	Cercis Canadensis
Desert Willow	Chilopsis linearis
Possumhaw	Ilex decidua
Yaupon Holly (Tree Form)	Ilex vomitoria
Golden Raintree	Koelreuteria sp.
Crape Myrtle	Lagerstroemia indica
'Little Gem' Magnolia	Magnolia grandiflora 'Little Gem'
Crabapple	Malus sp.
Vitex (Chastetree)	Vitex agnus-castus

(1) Noncanopy trees ("ornamental trees") should achieve a mature crown height less than 20 feet.

(2) Other species not listed above may also satisfy noncanopy tree requirements. Any tree selected must be regionally acclimated and perform well under local conditions (e.g., soil, water, climate, etc.).

Sections 62-483--62-502. Reserved.

Article VIII. "Corridor Overlay Standards"

Division 1. "Generally"

Sections 62-503--62-527. Reserved.

Division 2. "West Villa Maria FM 2818, and FM 158 Corridor Overlay Districts"

Sec. 62-528 General purpose and description.

This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

Sec. 62-529 Lot and setback standards.

(a) Reference.
Refer to building setbacks and lot standards in Article IV~~, article IV~~.

(b) Perimeter fencing.
Except for retaining walls required for soil stabilization and walls along the side or rear of lots, all fences and walls over 3 feet high shall be set back a specific number of feet from any street right-of-way line, or on private property a specific distance from the edge of the adjacent paved street surface.

(c) Off-street parking.
All off-street parking, maneuvering, and loading areas shall be set back from any street right-of-way line.

(d) Building.
Building shall not be permitted within setbacks.

(e) Impervious surfaces.
Buildings, parking areas, or other impervious surfaces, except for paved pedestrian or bicycle paths and recreational amenities such as picnic tables, shall not be located within the floodway portion of the 100-year floodplain or within 50 feet of the top of the bank, whichever is greater as determined by the C~~c~~ity E~~e~~ngineer or his or her designee, of existing water features (ponds, creek channels, or tributaries thereof) in the locations identified on the most current FEMA Flood Insurance Rate Maps (FIRMs) or on the City's Geographic Information System (GIS) or based on actual ground surveying for the top of bank~~maps~~. Where the 50-foot setback from the top of the bank applies, it may be reduced to a minimum of 25 feet if additional landscaping is planted in the remaining setback area in an amount of square-foot credit, equivalent to the total square feet of area by which the setback is reduced.

Standard	**West Villa Maria, FM 2818, FM 158**
Off-street parking setback	25 feet
Building within setbacks	Not permitted

Sec. 62-530 Landscape standards.

(a) General.
A certain percentage, as prescribed by the table below, of the developed area (buildings, parking areas, and other impervious surfaces) of each lot shall be landscaped. Landscaping placed in the rear of the developed area not adjacent to a public right-of-way is not given credit toward meeting the minimum requirement.

(b) Trees planted for landscape credit.
New trees planted for landscape credit shall be of a certain height and caliper, as prescribed by the table in Sec. 62-530(d)~~subsection (d) of this section~~. New trees shall be a species recommended for the Brazos Valley, a minimum of which shall have year-round foliage (e.g. Yaupon Holly, Japanese Black Pine, Live Oak) or be a flowering deciduous species (e.g. Crepe Myrtle, Texas Redbud, Bradford Pear, Purple Leaf Plum).

(c) Irrigation.
Installation of irrigation systems shall be required for all landscaped areas.

(d) Landscape credit for shrubs.
Newly planted ~~five~~5-gallon or larger shrubs shall each be granted 20 square feet landscape credit.

Standard	**West Villa Maria, FM 2818, FM 158**
Landscaped lot	At least 17~~ percent~~%
New landscaping	At least 8 feet in height, 2 1/2 inches in caliper, and a minimum of 75 ~~percent~~% having year-round foliage
Irrigation systems	Required
Landscape reserve	Not applicable

Sec. 62-531 Sign standards.

(a) Roof signs.
Roof signs shall not extend above the highest point of the roof visible from the nearest street toward which the sign faces.

(b) Moving signs.
Signs shall not have visible parts that move, swing, or rotate.

(c) Automatic signs.
Except for permitted automatic changeable copy signs, signs having revolving, flashing, blinking, or traveling lights are prohibited.

(d) Subdivision development signs.
In the A-O, RD-5, RD-7, and MF ~~d~~Districts, permitted subdivision or development identification signs shall not exceed a maximum height and size, as prescribed by the table in Sec. 62-531(f)~~subsection (f) of this section~~. Landscaping is required around the base of freestanding sign support structures as provided in ~~section~~ Sec. 62-429.

(e) Permitted signs in C-1, C-2, and I ~~d~~Districts.
In the C-1, C-2, and I ~~d~~Districts, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum

height, as prescribed by the table below, where such maximum limits would be more restrictive than allowed by the ~~s~~Sign ~~o~~Ordinance.

(f) Permitted signs in C-3 ~~d~~District.
In the C-3 ~~d~~District, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum height, as prescribed by the table below, where such maximum limits would be more restrictive than allowed by the ~~s~~Sign ~~o~~Ordinance.

Standard	**District**	**West Villa Maria, FM 2818, FM 158**
Signs	A-O, RD-5, RD-7, MF	Maximum height of 5 feet and maximum size of 60 square feet
	C-1, C-2, I	Maximum height of 10 feet and maximum size of 150 square feet
	C-3	Maximum height of 15 feet and maximum size of 200 square feet

Sec. 62-532 Access and off-street parking standards.

(a) Direct access.
Direct access is prohibited onto the specified thoroughfares from single-family and duplex residential uses on lots of a maximum amount of frontage located within the corridor.

(b) Driveways and loading access.
Driveways and loading areas, in addition to off-street parking and maneuvering areas, shall be paved with an all-weather surface of asphalt or concrete. Where the driveway or parking area on a lot provides the sole vehicular access from the street to a nonresidential use on an abutting lot, the driving surface used for such purpose shall be steel-reinforced concrete.

(c) Public sidewalks.
All public sidewalks along a specified thoroughfare shall be at least ~~six~~6 feet wide.

(d) Number of driveways.
The maximum number of driveways permitted for each lot shall not exceed the following limits, as prescribed by the table in ~~subsection (f) of this section~~Sec. 62-532(f).

(e) Corner clearance and driveway spacing.
The minimum corner clearance and driveway spacing determined by the functional classification of the street shall not be less than the limits described in ~~section~~ Sec. 62-296.

(f) Parking rows.
The length of rows of parking spaces between end islands or peninsulas shall not exceed a certain number of feet and, in outdoor parking areas having spaces for more than a specified number of vehicles where such islands or peninsulas are required, the distance from any parking space to a landscaped end island or peninsula shall not exceed a certain number of feet, as prescribed by the following table.

Standard	**West Villa Maria, FM 2818, FM 158**

Standard	West Villa Maria, FM 2818, FM 158
One access point	Lot frontages less than 200 feet
Two access points	Lot frontages of 201--400 feet
Three access points	Lot frontages of 401--600 feet
Four access points	Lot frontages greater than 600 feet
Parking rows	Maximum of 180 feet

Sections 62-533--62-557. Reserved.

Division 3. "SH 47 Corridor Overlay District"

Sec. 62-558 General purpose and description.

This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

Sec. 62-559 Lot and setback standards.

(a) Reference.
Refer to building setbacks and lot standards in Article IV~~, article IV of this chapter~~.

(b) Perimeter fencing.
Except for retaining walls required for soil stabilization and walls along the side or rear of lots, all fences and walls over 3 feet high shall be set back a specific number of feet from any street right-of-way line, or on private property a specific distance from the edge of the adjacent paved street surface, as prescribed in the table in ~~subsection (e) of this section~~Sec. 62-559(e), whichever is less.

(c) Off-street parking.
All off-street parking, maneuvering, and loading areas shall be set back from any street right-of-way line.

(d) Building and signage.
Signage shall be permitted within setbacks.

(e) Impervious surfaces.
Buildings, parking areas, or other impervious surfaces, except for paved pedestrian or bicycle paths and recreational amenities such as picnic tables, shall not be located within the floodway portion of the 100-year floodplain or within 50 feet of the top of the bank, whichever is greater as determined by the C~~c~~ity E~~e~~ngineer or his or her designee, of existing water features (ponds, creek channels, or tributaries thereof) in the locations identified on the most current FEMA Flood Insurance Rate Maps (FIRMs) or on the City's Geographic Information System (GIS) or based on actual ground surveying for the top of bank~~maps in section A.5~~. Where the 50-foot setback from the top of the bank applies, it may be reduced to a minimum of 25 feet if additional landscaping is

planted in the remaining setback area in an amount of square-foot credit, equivalent to the total square feet of area by which the setback is reduced.

Standard	SH 47
Subdivision perimeter fencing setback alongside or rear of lots	Along SH 47, at least 50 feet; along side streets 25 feet
Off-street parking setback	At least 50 feet
Building within setbacks	Not permitted
Signage within setbacks	Permitted

~~**Editor's note:** At the city's request the maps in section A.5, referred to in this section, are not set out herein, but are available for inspection in the city engineer's office.~~

Sec. 62-560 Landscape standards.

(a) General.
A certain percentage, as prescribed by the table in ~~subsection (e) of this section~~Sec. 62-560(e), of the developed area (buildings, parking areas, and other impervious surfaces) of each lot shall be landscaped. Landscaping placed in the rear of the developed area not adjacent to a public right-of-way is not given credit toward meeting the minimum requirement.

(b) Trees planted for landscape credit.
New trees planted for landscape credit shall be of a certain height and caliper, as prescribed by the table in ~~subsection (e) of this section~~Sec. 62-560(e). New trees shall be a species recommended for the Brazos Valley, a minimum of which shall have year-round foliage (e.g., Yaupon Holly, Japanese Black Pine, Live Oak) or be a flowering deciduous species (e.g. Crepe Myrtle, Texas Redbud, Bradford Pear, Purple Leaf Plum).

(c) Irrigation.
Installation of irrigation systems shall be required for all landscaped areas.

(d) Landscape credit for shrubs.
Newly planted ~~five~~5-gallon or larger shrubs shall each be granted 20 square feet landscape credit.

(e) Landscape reserves.
A landscape reserve shall be in effect for the front, side, and rear for commercial, residential, and subdivision properties as existing trees with a four-inch caliper or greater shall be preserved.

Standard	SH 47
Landscaped lot	At least 17 ~~percent~~%
New landscaping	At least 8 feet in height, 2 1/2 inches in caliper
Irrigation systems	Required
Landscape reserve	Commercial reserves at least 40 foot front and 10 foot side and rear; residential reserves at least 40 foot front along Highway 47; subdivision reserves at least 40 foot front along Highway 47

Sec. 62-561 Sign standards.

(a) Roof signs.
Roof signs shall not extend above the highest point of the roof visible from the nearest street toward which the sign faces.

(b) Moving signs.
Signs shall not have visible parts that move, swing, or rotate.

(c) Automatic signs.
Except for permitted automatic changeable copy signs, signs having revolving, flashing, blinking, or traveling lights are prohibited.

(d) Subdivision development signs.
In the A-O, RD-5, RD-7, and MF ~~d~~Districts, permitted subdivision or development identification signs shall not exceed a maximum height and size, as prescribed by the table below. Landscaping is required around the base of freestanding sign support structures as provided in this chapter.

(e) Permitted signs in C-1, C-2, and I ~~d~~Districts.
In the C-1, C-2, and I ~~d~~Districts, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum height, as prescribed in the table set out in Sec. 62-561(f)~~ subsection (f) of this section~~, where such maximum limits would be more restrictive than allowed by the ~~s~~Sign ~~o~~Ordinance.

(f) Permitted signs in C-3 ~~d~~District.
In the C-3 ~~d~~District, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum height, as prescribed by the following table, where such maximum limits would be more restrictive than allowed by the ~~s~~Sign ~~o~~Ordinance.

Standard	District	SH 47
Signs	A-O, RD-5, RD-7, MF	Maximum height of 5 feet and maximum size of 60 square feet
	C-1, C-2, I	Not to exceed 5 feet high by 8 feet long
	C-3	Not to exceed 5 feet high by 8 feet long

Sec. 62-562 Access and off-street parking standards.

(a) Direct access.
Direct access is prohibited onto the specified thoroughfares from single-family and duplex residential uses on lots of a maximum amount of frontage located within the corridor.

(b) Driveways and loading access.
Driveways and loading areas, in addition to off-street parking and maneuvering areas, shall be paved with an all-weather surface of asphalt or concrete. Where the driveway or parking area on a lot provides the sole vehicular access from the street to a nonresidential use on an abutting lot, the driving surface used for such purpose shall be steel-reinforced concrete.

(c) Public sidewalks.
All public sidewalks along a specified thoroughfare shall be at least ~~six~~6 feet wide. Sidewalks within the Highway 47 Corridor will be allowed to locate in the setback and be designated to follow a meandering path.

(d) Driveway and street corner spacing.
The minimum distance between driveways and street corners determined by the functional classification of the street shall not be less than the limits described by the table below.

(e) Driveway spacing.
The minimum distance between driveways determined by the functional classification of the street shall not be less than the limits described by the table below.

(f) Parking rows.
The length of rows of parking spaces between end islands or peninsulas shall not exceed a certain number of feet and, in outdoor parking areas having spaces for more than a specified number of vehicles where such islands or peninsulas are required, the distance from any parking space to a landscaped end island or peninsula shall not exceed a certain number of feet, as prescribed by the table below.

Standard	**SH 47**
Minimum distance between driveways and street corners	250 feet
Minimum distance between driveways	500 feet
Parking rows	Maximum of 360 feet

Sec. 62-563 Lighting standards.

(a) General.
Unless otherwise expressly stated, the provisions of this section shall apply to all outdoor lighting except lights on lots containing single-family detached houses, public streetlights and the exempt outdoor recreational uses specified in the following subsection.

(b) Exempt outdoor recreational use.
Because of their unique requirements for nighttime visibility and their limited hours of operation, schools and public parks and open space shall be exempt from the outdoor lighting standards of this section. Exempt outdoor recreational uses shall be subject to all other applicable requirements of this article and the following ~~sub~~standards.

(1) Exempt outdoor recreational uses shall not exceed a maximum permitted post height of 50 feet.

(2) Exempt outdoor recreational uses may exceed a total cutoff angle of 90 degrees, provided that the luminaire is shielded to prevent light and glare spillover to adjacent residential property. The maximum permitted illumination at the property shall not exceed two footcandles.

(3) No flickering or flashing lights shall be permitted.

(4) Light sources or luminaries shall not be located within landscape areas except on pedestrian walkways.

(5) Lights shall not be illuminated after 11:00 p.m.

(c) Outdoor lighting levels.
Outdoor lighting shall not exceed the following levels.

(1) 0.50 footcandle at the property line if the subject property abuts a residential ~~zoning~~ district or a lot containing a residential use; or

(2) 1.00 footcandle at the property line if the subject property abuts a nonresidential ~~zoning~~ district or lot containing a nonresidential use or at the right-of-way line.

(d) Heights of outdoor lighting.
Outdoor lighting shall not exceed the following heights.

(1) Light fixtures in parking lots shall not exceed a maximum height of 24 feet;

(2) Pedestrian walkway fixtures shall not exceed a maximum height of 12 feet.

Standard	**SH 47**
Outdoor recreational lighting post height	Maximum height of 50 feet
Total cutoff angle for outdoor recreational lighting	90 degrees
Maximum permitted illumination	2 footcandles
Parking lot fixtures	Maximum height of 24 feet
Pedestrian walkway fixtures	Maximum height of 12 feet

Sec. 62-564 Special restrictions for gasoline stations.

In cases where the underlying zoning district permits gasoline service stations and a station is proposed, the following restrictions shall apply.

(a) Restricted activities.

(1) No major emergency auto repair.

(2) No body, fender, or paintwork.

(3) No sale or rental of vehicles.

(4) All activities except those associated with fuel pumping must be conducted within an enclosed building.

(5) Service bays and carwash bays shall be oriented to face away from any right-of-way. Where this is impossible, screening methods will be required.

(b) Setbacks.

Refer to building setbacks and lot standards in Article IV~~, article IV~~.

(1) The main building shall conform to a minimum front, side, rear, and side street setback.

(2) Fuel pumps shall conform to a minimum front, side, rear, and side street setback.

(3) Canopies shall conform to a minimum front, side, rear, and side street setback of 15 feet.

(c) Storage and display.

(1) No outside storage or display of merchandise.

(2) Storage tanks must be located below grade.

(3) No outside storage of vehicles.

(4) Ice and vending machines must be enclosed in a building.

(5) No additional advertising within view of the right-of-way.

(d) Signs.

(1) Sign height shall be restricted by the provisions of ~~section~~ Sec. 62-595, but shall not exceed the height of the building.

(2) One detached sign and two attached signs will be permitted.

(3) No freestanding fuel price signage shall be permitted.

Sections 62-565--62-591. Reserved.

Division 4. "South College Corridor Overlay District"

Sec. 62-592 General purpose and description.

This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

Sec. 62-593 Lot and setback standards.

(a) Reference.
Refer to building setbacks and lot standards in Article IV~~, article IV~~.

(b) Off-street parking.
All off-street parking, maneuvering, and loading areas within a SC-B District shall be located to the rear of the property, behind any structures placed on the lot.

(c) Building and signage.
Signage shall be permitted within setbacks.

(d) Impervious surfaces.
Buildings, parking areas, or other impervious surfaces, except for paved pedestrian or bicycle paths and recreational amenities such as picnic tables, shall not be located within the floodway portion of the 100-year floodplain or within 50 feet of the top of the bank, whichever is greater as determined by the C~~c~~ity E~~e~~ngineer or his or her designee, of existing water features (ponds, creek channels, or tributaries thereof) in the locations identified on the most current FEMA Flood Insurance Rate Maps (FIRMs) or on the City's Geographic Information System (GIS) or based on actual ground surveying for the top of bank~~maps in section A.5~~. Where the 50-foot setback from the top of the bank applies, it may be reduced to a minimum of 25 feet if additional landscaping is planted in the remaining setback area in an amount of square-foot credit, equivalent to the total square feet of area by which the setback is reduced.

Standard	**South College**
Off-street parking setback in SC-B	Located towards the rear, behind the main structure
Building within setbacks	Not permitted
Signage within setbacks	Permitted

~~**Editor's note:** At the city's request the maps in section A.5 are not set out herein, but are available for inspection in the city engineer's office.~~

Sec. 62-594 Landscape standards.

(a) General.
A certain percentage, as prescribed by the table below, of the developed area (buildings, parking areas, and other impervious surfaces) of each lot shall be landscaped. Landscaping placed in the rear of the developed area not adjacent to a public right-of-way is not given credit toward meeting the minimum requirement.

(b) Trees planted for landscape credit.
New trees planted for landscape credit shall be of a certain height and caliper, as prescribed by the table below. New trees shall be a species recommended for the Brazos Valley, a minimum of which shall have year-round foliage (e.g., Yaupon Holly, Japanese Black Pine, Live Oak) or be a flowering deciduous species (e.g. Crepe myrtle, Texas Redbud, Bradford Pear, Purple leaf Plum).

(c) Irrigation.
Installation of irrigation systems shall be required for all landscaped areas.

(d) Landscape credit for shrubs.
Newly planted ~~five~~5-gallon or larger shrubs shall each be granted 20 square foot landscape credit.

Standard	South College
Landscaped lot	At least 8~~ percent~~%
New landscaping	At least 8 feet in height, 2 1/2 inches in caliper
Irrigation Systems	Required
Tree requirement	1 Live Oak per 50 feet of lot frontage will be required. These shall be spaced equally apart and placed within the first 3 feet of the front property line

Sec. 62-595 Sign standards.

(a) Roof signs.
Roof signs shall not extend above the highest point of the roof visible from the nearest street toward which the sign faces.

(b) Moving signs.
Signs shall not have visible parts that move, swing, or rotate.

(c) Automatic signs.
Except for permitted automatic changeable copy signs, signs having revolving, flashing, blinking, or traveling lights are prohibited.

(d) Permitted signs in SC-R and SC-B ~~d~~Districts.
In the SC-R and SC-B ~~d~~Districts, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum height, as prescribed by the table below, where such maximum limits would be more restrictive than allowed by Chapter 98, ~~s~~Signs.

Standard	District	South College
Signs	SC-B, SC-R	Maximum height of 5 feet and maximum size of 60 square feet

Sec. 62-596 Access and off-street parking standards.

(a) Driveways and loading access.
Driveways and loading areas, in addition to off-street parking and maneuvering areas, shall be paved with an all-weather surface of asphalt or concrete. Where the driveway or parking area on a lot provides the sole vehicular access from the street to a nonresidential use on an abutting lot, the driving surface used for such purpose shall be steel-reinforced concrete.

(b) Corner clearance and driveway spacing.
A joint access agreement may be required to provide a reduction in the driveway and street corner spacing. In the event joint access cannot be obtained, the minimum corner clearance and

driveway spacing shall be determined by the functional classification of the street and shall not be less than the limits described in ~~section~~ Sec. 62-296. Residential driveways are exempt from this requirement.

(c) Public sidewalks.
Public sidewalks will not be required for any portions of a lot that are directly adjacent to South College. Sidewalks will be required along all other curb and gutter streets.

Sections 62-597--62-625. Reserved.

Division 5. "Variances"

Sec. 62-626 Granting.

(a) Planning and ~~zoning commission~~ Zoning Commission authorization.
The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may authorize a variance from the regulations in this article when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall prescribe only conditions that it deems necessary to or desirable in the public interest.

(b) Conditions for granting.
No variance shall be granted unless the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission finds that all of the following are met:

(1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his or her land;

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

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

(4) That the granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this article.

(c) Findings of ~~p~~Planning and ~~z~~Zoning ~~c~~Commission.
Such findings of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Request to be in writing; submission.
All requested variances from this article shall be made in writing at least ~~ten~~10 working days prior to the date on which consideration is to be given by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. Submittal shall be made in the Planning and ~~d~~Development ~~s~~Services ~~office~~Department.

Sec. 62-627 Appeals.

(a) Request; time limit.
If the applicant should disagree with the action of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, he or she may appeal the decision to the ~~c~~City ~~c~~Council. The request for appeal must be made in writing within ~~ten~~10 days of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission's decision.

(b) Review by ~~c~~City ~~c~~Council.
Following the filing of a notice of appeal, the ~~c~~City ~~c~~Council shall, within 30 days, conduct a review of the decision of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission denying the requested variance. In its review of the decision of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission to deny the requested variance, the ~~c~~City ~~c~~Council shall utilize the criteria set forth in ~~section~~ Sec. 62-626.

(c) Failure of ~~c~~City ~~c~~Council to act.
An application for a variance is automatically granted if the ~~c~~City ~~c~~Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sections 62-628--62-657. Reserved.

Article IX. "Wireless Telecommunication Facilities"*

***Cross references:** Wireless telecommunication facilities, Sec. 130-35.

Sec. 62-658 Definitions.
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: See Sec. 130-35(a).

Sec. 62-659 WTF standards.

(a) Height limitations.

(1) All WTFs are subject to the normal zoning height restrictions for each zoning district where permitted by right. In any zoning district where a tower is a conditional use, the allowable height is determined through the review of the visual impact analysis, with the maximum permitted heights for WTFs being determined by the use categories.

(2) In no case shall a proposed transmission tower exceed 200 feet within the City limits, except where a height variance is granted by the ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment to allow a tower or antenna that demonstrates a hardship that can only be remedied by locating on a proposed site within the City limits.

(b) Tower siting along major thoroughfares and gateways.
In an effort to preserve and protect the City's major thoroughfares and gateways into the City, this article places additional setbacks on WTFs potentially locating in or near these areas. The setback for these areas is determined by measuring from the centerline of the right-of-way of any highway, arterial, or collector on either side running along the length of the right-of-way. Refer to the WTF siting matrix ~~(section~~ in Zoning Ordinance Sec. 130-35(b)(2) ~~62-659)~~. Exception: All direct-to-home services, citizen's band radio, and all stealth facilities.

(c) Siting in overlay districts.
Certain, more intense WTFs are not allowed in the overlay districts where their presence would destroy or detract from the aesthetic beauty, historic significance, or safety and general welfare of the properties located therein. Some WTFs are allowed but must adhere to a stricter siting policy such as increased setbacks, distance from nearby residential uses, or screening. Refer to the WTF

siting matrix ~~(section~~ in Zoning Ordinance Sec. 130-35(b)(2)~~62-659)~~. Exception: All direct-to-home services, citizen's band radio, and all stealth facilities.

(d) Separation between towers.

(1) The City desires to protect its natural beauty and skyline by limiting the number of towers per square mile. Densities for towers are calculated using the following:

a. For minor facilities, towers shall be separated by a minimum of the height of the tower multiplied by 50.

b. For intermediate facilities, towers shall be separated by a minimum of the height of the tower multiplied by 45.

c. For major facilities, towers shall be separated by a minimum of the height of the tower multiplied by 25.

(2) Exception: Stealth facilities.

Sec. 62-660 Review processes.

(a) The ~~p~~Planning and ~~d~~Development ~~s~~Services ~~d~~Department has 3 review processes, which may apply to the development of WTFs:

(1) Platting.
The normal platting requirements as required by the ~~city s~~Subdivision ~~o~~Ordinance and the Texas Local Government Code shall apply to WTFs.

(2) WTF registration.
This process is required for certain minor use subcategories and all intermediate and major subcategories with the exception of direct-to-home services and citizen's band radio. The applicant can register by submitting the appropriate information to the ~~p~~Planning and Development ~~s~~Services ~~d~~Department. This information will be used to aid in long range planning.

(3) Site Development Review Committee (SDRC).
The Site Development Review Committee is the main body overseeing site design and development for the City. They may implement any of the site-specific criteria set forth in this article in addition to other local government codes and ordinances.

(b) To make application for site review, the following is required:

(1) Completed application for site review and application fee submitted to the ~~p~~Planning and Development ~~s~~Services ~~d~~Department.

(2) A drawing and any supporting documents that identifies:

a. The location of existing applicant-owned wireless telecommunication facilities in the county;

b. The type and height of each existing facility;

c. The current proposed facility;

d. The type and height of the proposed facility;

e. At least 3 collocation alternatives to the applicant's own development along with proof of a genuine effort in collocating on or attaching to an existing support structure; a certified letter addressed to potential lessors is recommended in addition to evidence that

demonstrates that no existing tower or support structure can accommodate the applicant's proposed WTF. Any of the following may be submitted as evidence:

1. No existing structures are located within the geographic area required to meet applicant's engineering requirements.
2. Existing structures are of insufficient height to meet applicant's engineering requirements.
3. Existing structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing structures, or the antenna on the existing structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing structure or to adapt an existing support structure for sharing are unreasonable. Costs exceeding those for new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing structures unsuitable. It is not necessary to reveal future plans or locations for additional proposed facilities. The plan will assist the City in understanding the need for any new wireless telecommunication facility, assess the land use impacts, and aid in comprehensive land use planning.

(3) Visual impact analysis; presented by one of two methods, photographs or drawings. In either case, ~~four~~4 views or elevations shall be submitted looking toward the site (typically, north, south, east, and west) including site and the surrounding properties measured from the center point of the tower out to a distance equal to 3 times the height of the proposed tower. This drawing will depict a "skyline" view showing the entire height of the proposed tower and the surrounding structures, trees, or any other objects contributing to the skyline profile. The applicant shall draw the proposed tower directly on the photographs in black ink.

(4) Proof of compliance with FCC regulations.

(5) Notification of an impending environmental assessment required by the National Environmental Protection Agency (NEPA) and a copy when the assessment is completed (if applicable).

(6) A letter addressed to the City declaring an intent and willingness to build out a proposed tower to allow at least two other service providers.

(7) Copies of a site plan (the site plan is not the same as the WTF facility plan) as per Site Development Review Committee requirements; including signature lines for both the owner of the WTF and/or the owner of the property indicating an agreement to remove the entire WTF and any related equipment within 60 days of abandonment. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer. Upon receipt of the above items, the Site Development Review Committee will process the application and review the site plan. Upon SDRC approval, and where a conditional use permit is required, the site plan will be forwarded along with a ~~p~~Planning and Development ~~s~~Services Department staff recommendation to the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission for consideration.

Sec. 62-661 Site development criteria for WTFs.

The site development requirements for WTFs follow the normal standards for any other type of development according to the City's local code and ordinances. However some additional standards apply to these sites as follows:

(a) Additional setbacks and separation requirements.
WTFs are not required to comply with the standard setbacks for each zoning district but shall comply with ~~section~~ the landscaping and screening requirements of Sec. 62-661(d)~~130-36, screening fence standards, which requires that a fence of certain height be setback from the street paving~~. Some additional setbacks or separation shall be required depending on the type of WTF and the potential location of that facility. Refer to the WTF siting matrix in Zoning Ordinance Sec. 130-35(b)(2)~~(section 62-659)~~.

(1) To protect citizens in their homes, transmission towers shall be placed a tower height distance away from any residential structure or residential zone boundary.

(2) To minimize the number of towers per square mile, a tower shall be placed a minimum distance from all other towers.

(3) To protect City thoroughfares and gateways, a WTF shall be placed a specified distance from the centerline of such designated areas.

(4) To protect the architectural beauty and significance of certain overlay districts, certain WTFs shall be placed at or behind the imaginary front line of the most major (largest gfa) structure on site.

(b) Security fencing.
Towers shall be enclosed by security fencing not less than ~~six~~6 feet in height and shall also be equipped with an appropriate anticlimbing device.

(c) Special aesthetic and lighting standards.

(1) New transmission towers shall maintain a galvanized steel finish or be painted in accordance with any applicable standards of the FAA.

(2) The design of the related buildings and equipment shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the facility to the natural setting and built environment.

(3) If an antenna is installed on a support structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusiveness as possible.

(4) WTFs shall not be artificially lighted with the exception of motion detectors as security lighting, unless required by the FAA or other applicable authority. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties.

(d) Landscaping and screening requirements.
The following requirements shall govern the landscaping and screening for a transmission tower or any parabolic antenna larger than two meters.

(1) Tower compounds shall be landscaped with a buffer of plant materials that effectively screens the base of the WTF site from view of public right-of-way. The standard buffer shall consist of a landscaped strip at least ~~four~~4 feet wide outside the perimeter of the compound. A

screening fence may be used in part to screen a WTF, but must be in addition to the required landscaping.

(2) Certain parabolic dishes attached to the ground shall be screened from public right-of-way by a combination of siting at or behind the imaginary front line of the most major structure on site (largest in gross floor area) and landscaping a ~~four~~4 feet wide strip between the dish and right-of-way. Refer to the WTF siting matrix- in Zoning Ordinance Sec. 130-35(b)(2) ~~(section 62-659)~~.

(3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, where towers are sited on large, wooded parcels, natural growth around the site perimeter may be a sufficient buffer.

(4) It is the responsibility of the WTF owner to maintain any required landscaping.

(e) Parking and access.

All proposed transmission towers shall provide a point of access from right-of-way which is in conformance with City driveway standards. No off-street parking is required.

Sec. 62-662 Abandonment.

Any WTF that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such a facility shall remove same within 60 days of receipt of notice from the City notifying the owner of such abandonment. If such facility is not removed within said 60 days, the City may remove such facility at the property owner's expense. If there are two or more users of a single WTF, then this provision shall not become effective until all users cease operations on the tower.

Sections 62-663--62-~~690~~669. Reserved.

Article X. "Building Design and Color"

Division 1. "Building Design"

Sec. 62-670 Scope and Purpose.

(a) Purpose.

The purpose of this division is to set minimum standards for the exterior design and appearance of ~~non-~~nonresidential buildings, which are recognized as enhancing property values and are in the interest of the general welfare of the City.

(b) Scope and enforcement.

(1) The provisions of this division shall be administered by the ~~d~~Director of ~~d~~Development ~~s~~Services or designee.

(2) The standards and criteria contained within this division and the Building Design Guidelines are deemed to be minimum standards and shall apply to buildings constructed after ~~the effective date of this ordinance~~February 2, 2015. Buildings constructed after February 2, 2015~~the effective date of this ordinance~~ shall at all times comply with the provisions of this division and the version of the Building Design Guidelines in force at the time of the building permit application.

(3) After February 2, 2015~~the effective date of this ordinance~~, when a change is proposed in the uses of a permitted building, the additional design standards apply as follows:

a. If a certificate of occupancy has previously been issued for the building, the additional provisions of this division and the Building Design Guidelines shall be waived until such time that the structure is expanded or modified. Compliance is required with all other sections of this division and all other applicable ordinances.

b. If a certificate of occupancy has never been issued for the building, all provisions of this division and the Building Design Guidelines must be met prior to issuance of a certificate of occupancy.

c. Upon request by an applicant, the Design Review Board may make a recommendation to City Council to approve a waiver of all or part of the provisions of this division, building design, or the Building Design Guidelines. Prior to consideration of the waiver, a public hearing shall be held, with written notice sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within 200 feet of any property affected thereby, not less than 10 days before the hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail.

(4) Provisions of this division and the Building Design Guidelines shall not apply to the following:

a. Properties not adjoining or located within 200 feet, whichever is greater, of the following major thoroughfares:

1. Texas Avenue
2. William Joel Bryan Parkway
3. Boonville Road
4. F.M. 158
5. Harvey Mitchell Parkway/F.M. 2818
6. Earl Rudder Freeway/State Highway 6
7. S. College Avenue/State Highway 308
8. E. 29th Street
9. Villa Maria Road
10. Beck Street
11. State Highway 21
12. F.M. 1179
13. Briarcrest Drive
14. State Highway 47
15. Wellborn Road
16. College Main Street
17. Tabor Road/F.M. 974
18. University Drive East/State Highway 60
19. Leonard Road
20. Groesbeck Street
21. S. Bryan Avenue
22. 800 block of S. Sims Avenue

23. 800 – 1100 blocks of S. Main Street

b. Single family, two-family (duplex), or multi-family residential construction of two stories or less;

c. Structures in historic preservation or other overlay districts, if applicable design standards exist for those districts and a conflict exists between those standards and this division;

d. Warehouses or other non-office structures on properties in Industrial Districts;

e. Temporary uses lasting no longer than six months; or

f. Buildings constructed prior to February 2, 2014~~the effective date of this ordinance~~, which meet any of the following criteria:

1. Portions of a building proposed to be added to any existing commercial structure, which will not increase the originally approved floor area by 50~~ percent~~% or more, either by a single expansion or by the cumulative effect of a series of expansions; or

2. Reconstruction of a commercial building due to damage of any kind that necessitates improving, rehabilitating, or reconstructing not more than 50~~ percent~~% of the original structure or by the cumulative effect of a series of reconstructive activities.

Sec. 62-671 Conflicts.

(a) Conflicts with ~~p~~Planned ~~d~~Development ~~d~~District ordinances.
Where provisions of a ~~p~~Planned ~~d~~Development (PD) ~~d~~District ordinance specify architectural or site elements requirements for a project, compliance with provisions of ~~the planned development~~ PD ~~d~~District, this division, and the Building Design Guidelines shall be required. Where a conflict between the provisions of the individual ordinances or guidelines exists, the provisions of the ~~planned development~~ PD ~~d~~District ordinance shall control.

(b) Conflicts with other ordinances.
All applicable provisions of the ~~z~~Zoning ~~o~~Ordinance, ~~s~~Subdivision O~~o~~rdinance, building codes, and other ordinances (except ~~planned development~~ PD ~~d~~District ordinances) shall apply. Where provisions of other ordinances or guidelines conflict with this division or the Building Design Guidelines, the more restrictive provision shall control.

Sec. 62-672 Design standards application and approval.

(a) Application.

(1) Along with the submission of an application for any building permit necessary for the development or redevelopment of property subject to the provisions of this article, the following must also be submitted to evaluate compliance with this division:

a. Calculation of points to be awarded for the project, on a scoring sheet provided by the ~~c~~Chief ~~b~~Building ~~o~~Official, and including an original signature of the architect or other designer certifying its accuracy and completeness;

b. A site plan showing the building footprint and all site elements for which points are to be awarded, in sufficient detail to demonstrate compliance with the Building Design Guidelines;

c. Elevations, drawn to scale, with finishing materials and paint color information indicated; and

d. All other information necessary to demonstrate compliance with the evaluation criteria as indicated on the scoring sheet.

(2) If the applicant has not submitted sufficient information to demonstrate conformance with the required standards, the application may be found to be administratively incomplete and the application will not be further reviewed until complete information is submitted.

(b) Approval process.
The design standards elements application shall be reviewed within 15 business days unless otherwise noted below.

Sec. 62-673 Appeal of interpretation.

The applicant may appeal staff's interpretation of this division by:

(a) Submitting a written request to the ~~d~~Director of ~~d~~Development ~~s~~Services for an appeal of interpretation.

(b) Within 30 days, the Design Review Board will hear the appeal and review all related documentation submitted as part of the design standards application. The applicant may be requested to submit additional information in support of the appeal.

(c) After hearing the appeal, the Design Review Board will issue a final decision of approval or denial. If the ~~d~~Design ~~r~~Review ~~b~~Board denies the appeal, the applicant may appeal the decision to the City Council. The request for appeal must be made in writing within ten days of the Design Review Board's decision, according to the process listed below regarding appeal of decision.

Sec. 62-674 Meritorious exceptions.

(a) It is not the intent of this division to discourage innovation. An architectural and site design that does not conform with the specific requirements of this division, but which has merit by making a positive contribution to the visual environment and which is appropriate to the site and use, may be submitted for consideration as a meritorious exception. Such proposals shall be fairly and seriously considered by the Design Review Board through the approval process outlined below.

(1) An applicant for a meritorious exception shall submit:

a. All items required for the design standards application;

b. A written description of the nature of the meritorious exception and the compelling reasons that prevent the applicant from meeting the minimum standards set forth herein;

c. Color renderings of all elevations; and

d. A three-dimensional rendering of all facades visible from public rights-of-way.

(2) The application for a meritorious exception shall be reviewed by staff and a report of findings shall be prepared and submitted to the Design Review Board. If the applicant disagrees with the decision of the Design Review Board, the applicant may, within 10 days of the Design Review Board action, request in writing to the ~~d~~Director of ~~d~~Development ~~s~~Services that the meritorious exception be appealed to the City Council as outlined below under appeal of decision. Prior to consideration of an application for a meritorious exception, the Design Review Board shall hold a public hearing, with written notice sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within 200 feet of any property affected thereby, not less than ten days before the hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail.

(3) In considering the request, the Design Review Board shall consider the following factors in determining the extent of any meritorious exception granted:

a. The extent to which the application meets other specific standards of this division;

b. The extent to which the application meets the spirit and intent of this division and the Building Design Guidelines through the use of building materials, colors, and facade design to create a building of exceptional quality and appearance;

c. The positive or negative impact of the proposed project on surrounding property use and property values, in comparison to the expected impact of a project, which could be built in conformance with standards of this division and the Building Design Guidelines; and

d. The extent to which the proposed project accomplishes City goals as stated in the comprehensive plan or other approved document.

(4) A meritorious exception shall not be granted to serve as a convenience to the applicant, or for reasons related to economic hardship.

(b) Findings of the Design Review Board shall be incorporated into the official minutes of the ~~d~~Design ~~r~~Review ~~b~~Board meeting at which such meritorious exception is granted.

Sec. 62-675 Limited waivers for expansion or reconstruction.

The ~~d~~Director of ~~d~~Development ~~s~~Services may, upon request by the applicant, authorize a waiver from specific requirements for exterior materials or design, if strict compliance with these standards or the Building Design Guidelines would result in significantly inconsistent appearance between existing and proposed sections of the building. The criteria for review will be the same as those for a meritorious exception, as listed above.

(a) The applicant shall submit detailed information to the ~~d~~Director of ~~d~~Development ~~s~~Services as required above for meritorious exceptions.

(b) The ~~d~~Director of ~~d~~Development ~~s~~Services may, for any reason, refer the request for a waiver to the Design Review Board for a decision according to procedures outlined above for meritorious exceptions.

(c) The applicant may appeal the decision of the ~~d~~Director of ~~d~~Development ~~s~~Services to the Design Review Board according to the procedures outlined above for meritorious exceptions.

(d) The applicant may appeal the decision of the Design Review Board to the ~~c~~City ~~c~~Council according to the procedures outlined below under appeal of decision.

Sec. 62-676 Variances.

(a) When a property owner can show that a strict application of the terms of this division or Building Design Guidelines relating to architectural or site standards will impose upon him unusual and practical difficulties or particular hardship, including instances where an applicant has previously built in strict conformance with approved architectural and site standards plans and such approval was erroneously granted by the ~~c~~Chief ~~b~~Building ~~o~~Official or designee, a variance from the strict application of this division or Building Design Guidelines may be granted by the ~~d~~Design ~~r~~Review ~~b~~Board; provided that:

(1) The variance requested is in harmony with the general purpose and intent of this division and the Building Design Guidelines;

(2) The Board is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate a demonstrable and unusual hardship or difficulty; and

(3) The Board is satisfied that there will be no adverse impact on surrounding property.

(b) The applicant may appeal the decision of the Design Review Board to the ~~c~~City ~~c~~Council according to the procedures outlined below under appeal of decision.

(c) Findings.
Such findings of the Design Review Board, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Design Review Board meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Formal application.
All requested variances from this division shall be made in the form of a formal application prior to consideration by the Design Review Board. Submittal shall be made in the ~~office of p~~Planning and ~~d~~Development ~~s~~Services Department.

Sec. 62-677 Appeal of Design Review Board decision.

(a) Request by applicant.
If an applicant disagrees with the final decision of the Design Review Board, the applicant may appeal the decision to the City Council. The request for appeal must be made in writing within ten days of the Design Review Board's decision.

(b) City Council review.
Following the filing of a notice of appeal, the City Council shall, within 30 days, conduct a review of the decision of the Design Review Board. In its review of the decision of the Design Review Board, the City Council shall utilize the same criteria set forth for the consideration of the Design Review Board for review.

(c) Failure of ~~c~~City ~~c~~Council to act on appeal of variance decision.
An application for a variance is automatically granted if the City Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sec. 62-678 Permitting and occupancy.

(a) No development permit of any kind shall be issued for any development subject to the provisions of this division or the Building Design Guidelines until an architectural plan, which meets or exceeds the standards set forth herein and in the Building Design Guidelines has been approved by the ~~c~~Chief ~~b~~Building ~~o~~Official or designee according to the procedure for applications listed above.

(b) A certificate of occupancy shall not be issued for any development which is required to meet the provisions of this division and the Building Design Guidelines, unless it is constructed in accordance with the approved architectural and site standards plan.

Sec. 62-679 Noncompliance.

(a) If at any time after the issuance of a certificate of occupancy the building exterior or site is altered in such a manner as to modify any element of the approved architectural and site standards plan,

the ~~c~~Chief ~~b~~Building ~~o~~Official shall issue a notice of noncompliance to the owner, citing the violation and describing action required to comply with this division.

(1) The owner, tenant, and/or agent shall, within 30 days of said notice:

a. Submit revised plans, which meet standards outlined in this division and in Building Design Guidelines; or

b. Make reasonable progress toward restoring the building and site to its approved form, or, if no progress can be made within 30 days due to weather or other factors, receive a temporary waiver from the ~~c~~Chief ~~b~~Building ~~o~~Official for this requirement.

(b) If, within 90 days of the date of notice of noncompliance, full restoration in compliance with original or revised and approved plans has not been made, the owner, tenant, and/or agent shall be held in violation of this division.

Division 2. Building Design Guidelines

Sec. 62-680 Intent.

These building design guidelines are intended to:

(a) Showcase and preserve Bryan's unique identity;

(b) Help buildings function better in Bryan's environment;

(c) Create buildings with appropriate human scale;

(d) Ensure that buildings contribute to the vitality of Bryan's entrances and main corridors;

(e) Increase the quality, adaptability, and sustainability of Bryan's building stock;

(f) Apply to all new commercial structures and certain commercial structures under rehabilitation, situated within 200 feet or the depth of the abutting lot, whichever is less, on either side of the street right-of-way along the following thoroughfares:

(1) Texas Avenue
(2) William Joel Bryan Parkway
(3) Boonville Road
(4) F.M. 158
(5) Harvey Mitchell Parkway/F.M. 2818
(6) Earl Rudder Freeway/State Highway 6
(7) S. College Avenue/State Highway 308
(8) E. 29th Street
(9) Villa Maria Road
(10) Beck Street
(11) State Highway 21
(12) F.M. 1179
(13) Briarcrest Drive
(14) State Highway 47
(15) Wellborn Road
(16) College Main Street

(17) Tabor Road/F.M. 974

(18) University Drive East/State Highway 60

(19) Leonard Road

(20) Groesbeck Street

(21) S. Bryan Avenue

(22) 800 block of S. Sims Avenue

(23) 800 – 1100 blocks of S. Main Street

Sec. 62-681 Best Practices.

(a) Projects should be compatible with the scale of adjacent and nearby actual and anticipated development and should provide a sensitive transition to more restrictive zoning districts.

(b) New buildings proposed in areas that have a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of nearby buildings as well as the spatial characteristics of the right-of-way. New buildings proposed in other areas should reinvigorate the area by introducing more desirable features. Features that can be used to integrate new buildings include fenestration patterns, building proportions, roof forms or building materials.

(c) Building design elements, details, and massing should create a well-proportioned and unified building form and exhibit an overall architectural concept. Buildings should exhibit form and features identifying the functions within the building with elements and details to achieve a good human scale.

(d) Building exteriors should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, and lend themselves to a high quality of detailing are encouraged. Buildings should avoid large blank walls facing the street.

(e) Convenient, identifiable and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be sufficiently lighted and entry areas should be protected from the weather. Opportunities for creating lively, pedestrian-oriented open space should be considered, especially along the street edge.

(f) Site design should consider opportunities for enhancing personal safety and security, including providing adequate lighting and minimizing visual clutter. Buildings should avoid large blank walls lacking design features, but should preferably allow for visual connection between activities occurring on the interior and exterior of the building.

(g) Where possible, landscaping should reinforce the character of the development and abutting streetscape while enhancing the architecture of the building project. Possibilities include special pavements, trellises, screen walls, fountains, planters and site furniture.

Sec. 62-682 Building Frontages.

(a) Applicability.
This section is applicable to any publicly visible building frontage of any commercial land use on any thoroughfare referenced in Sec. 62-680(f)~~Section 1.6 above~~. Building facades adjoining other buildings (attached to more than 50~~ percent~~% of the sidewall) are exempt.

(b) exterior colors.
Please refer to Division 3 ~~Section 62-680, Building Color, of the City of Bryan's Land and Site Development Ordinance~~ for colors permitted on exterior facades of commercial structures.

(c) Fabric awnings.

If used, fabric awnings must be composed of fabric that is guaranteed by the manufacturer to survive in good condition for no less than 10 years from the date of installation.

(d) Shade and shelter.

Bryan's climate requires shade and shelter amenities in order to accommodate and promote pedestrian activity, as well as protect pedestrians from inclement weather. Projects shall meet the following shade and shelter requirements:

Figure 1: Example of awning at building entrance

(1) If provided, at least one ADA ramp alongside the building must be shaded to a minimum of 2 times the width (as determined by a ramp user) of the contiguous lineal ramp section closest to the building. If a rear ADA ramp is also provided as part of the building design, it shall also meet the requirements of this section. Such shade devices shall have a maximum canopy height of 15 feet.

(2) Principal building entrances shall be located under a shade device such as a building projection or recess in building face with a minimum depth of 6 feet and maximum canopy height of 20 feet.

(e) Glazing on building facades.

Glazing provides interest for the passer-by, connects the building exterior and interior, puts eyes on the street, promotes reusability, and provides a human-scale element on building facades.

(1) Any façade that is built up to an interior mid-block property line is not required to have glazing on that façade, if no prohibitions and no contractual or legal impediments exist that would prevent a building being constructed on the adjacent property up to the wall of the façade ("zero lot line" structures).

(2) At least one-third of the total area of all glazing on ground-floor facades that face the principal street shall have a Visible Transmittance (VT) of 0.4 or higher.

(3) Walls that must be blank for security or other requirements shall be enhanced by the use of plant materials, artwork, canopies, special lighting, or a combination of façade articulation and material changes. Any such alternative plans must be approved by the Design Review Board. Plans submitted for consideration must be sealed by a registered architect or landscape architect, as appropriate, and show reasonable evidence that the requirements set forth in these standards were used as a guide. Evidence of security requirements should be submitted as listed in state or federal law.

Sec. 62-683 Options to Improve Building Design.

(a) Applicability.

This section is applicable to the development of any commercial use that requires a building permit or is converted to commercial use on any thoroughfare referenced in Sec. 62-680(f)~~Section 1.6 above~~. Buildings of 5,000 square feet or more are required to meet a higher point minimum than those of 4,999 square feet or less.

(b) Building design options.

(1) General requirement.

a. Each building of 4,999 square feet or less subject to this section must earn one base point from the table below, and may be required to earn additional points if certain design parameters are present.

b. Each building of 5,000 square feet or more subject to this section must earn four base points from the table below, and may be required to earn additional points if certain design parameters are present.

c. Developments with multiple buildings are required to earn the applicable number of points for each building.

(2) Additional requirements for certain types of development.
The following shall earn points as specified below, in addition to the base points required in Sec. 62-683(b)(1)~~subsection A~~. All points in this section shall be earned cumulatively.

a. If the building plan depicts any of the design parameters listed below, an additional point must be earned for each design feature (except as noted):

1. Building façade exceeds 200 feet in width without entrances at least every 50 feet.

2. Individual use is greater than 50,000 square feet.

3. Building is a pad-site building with either of the following features:

(i) Drive-in or drive-through; and/or

(ii) Building is separated from other buildings by surface parking on at least two sides~~;~~.

4. Concrete block (not including decorative concrete block) is used on more than 25 ~~percent~~% of a façade visible to the public.

5. Concrete block (not including decorative concrete block) is used on more than 75 ~~percent~~% of a façade visible to the public (must earn two additional points).

6. EIFS is used as a wall system (not including heavy foam moldings) on the ground floor below 10 feet.

7. Typical pre-engineered metal building wall panels such as "R" or "M" panels are used on more than 20~~ percent~~% of a façade visible to the public (must earn two additional points).

(3) Table of design options.

Option	Description / Comments
Group A: Each option worth 1 point	
Provide for liner stores in building façade (1 point each).	A liner store is a commercial use on the ground floor of a building located not more than 30 feet from the street right-of-way with an entrance facing the street.
Provide façade articulation through one method listed below, for at least two facades of the building. May gain up to two points through these methods.	See ~~definition D. 1. below.~~Sec. 62-683(b)(4)a

Option	Description / Comments
Provide primary entrance design.	See ~~definition D. 2. below.~~ Sec. 62-683(b)(4)a
Provide building materials from set "B" below for 60% or more of 3 most visible building facades, not including window or door area.	See ~~definition D. 4. below.~~Sec. 62-683(b)(4)d
Provide shelter integrated into building form alongside at least 20 ~~percent~~% of all building frontages adjacent to or facing the principal street or adjacent parking with maximum canopy height of 15 feet.	
Provide glazing on at least 20 ~~percent~~% of wall area between two and ten feet above grade on first floor, for at least two facades of the building.	
100% of glazing on ground-floor facades that face any street or parking lot have a Visible Transmittance (VT) of 0.4 or higher.	
Group B: Each option worth 3 points	
Provide building materials from set "A" below for 60% or more of 3 most visible building facades, not including window or door area.	See ~~definition D. 4. below.~~Sec. 62-683(b)(4)d
Provide glazing on at least 40 ~~percent~~% of wall area between two and ten feet above grade on first floor, for at least two facades of the building.	
Design building so that at least 75 ~~percent~~% of the façade facing the principal street consists of storefronts with at least two separate entrances facing the principal street.	See Sec. 62-682(d) for entrance area requirements.
Provide shelter integrated into building form alongside at least 40 ~~percent~~% of all building frontages adjacent to or facing the principal street or adjacent parking with maximum canopy height of 15 feet.	
Provide a sustainable roof.	See Sec. 62-683(b)(4)c
Integrate onsite renewable energy into building design.	The specific features and design shall be approved by the Director of Planning and Development Services. Examples may include, but are not limited to, rooftop solar panels or biomass boilers.

(4) Definitions of options.

a. Façade articulation.

For purposes of satisfying the requirements in Sec. 62-683(b)(1) and Sec. 62-683(b)(2)~~subsections A. and B. above~~, "façade articulation" shall consist of one of the following design features:

1. Changes in plane with a depth of at least 24 inches, either horizontally or vertically, at intervals of not less than 20 feet and not more than 60 feet;
2. Changes of texture or material, either horizontally or vertically, at intervals of not less than 20 feet and not more than 60 feet;
3. A repeating pattern of wall recesses and projections, such as bays, offsets, reveals or projecting ribs, that has a relief of at least eight inches.

Figure 2: Examples of façade articulation

b. Primary entrance design.

For purposes of satisfying the requirements in Sec. 62-683(b)(1) and Sec. 62-683(b)(2)~~subsections A. and B. above~~, "primary entrance design" shall consist of at least 3 of the following design elements at the primary entrance, so that the primary entrance is architecturally prominent and clearly visible from the abutting street:

1. Architectural details such as arches, friezes, tile work, murals, or moldings.
2. Integral planters or wing walls that incorporate landscape or seating.
3. Enhanced exterior light fixtures such as wall sconces, light coves with concealed light sources, ground-mounted accent lights, or decorative pedestal lights.
4. Prominent three-dimensional features, such as belfries, chimneys, clock towers, domes, spires, steeples, towers, or turrets.
5. A repeating pattern of pilasters projecting from the façade wall by a minimum of eight inches or architectural or decorative columns.

c. Sustainable roof.

For purposes of satisfying the requirements ~~in subsections A. and B. above~~of Sec. 62-683(b)(1) and Sec. 62-683(b)(2), a "sustainable roof" is roofing that has one of the following:

Figure 1: Example of a sustainable roof

1. For a minimum of 75~~ percent~~% of the total roof surface, a Solar Reflectance Index (SRI) of 78 or higher for a roof with a slope of 2:12 or less, or 29 or higher for a roof with a slope greater than 2:12; or

2. For a minimum of 50~~ percent~~% of the total roof surface, a vegetated roof;

3. For a minimum of 50~~ percent~~% of the total roof surface, rainwater collection system, connected to irrigation system or other building system through piping; or

4. For a minimum of 75~~ percent~~% of the total roof surface, a combination of a vegetated roof with rainwater collection system and SRI-compliant roof meeting the SRI standards listed in ~~"a" above~~Sec. 62-683(b)(4)c.1.

d. Building materials.

1) For purposes of satisfying the requirements in Sec. 62-683(b)(1) and Sec.62-683(b)(2), "building materials" are defined as:

1. Set "A" materials: natural stone, unpainted brick, 3-step hard coat cementitious stucco, unpainted integrally colored decorative concrete block, tile, composite metal panels, or smooth zinc panels.

2. Set "B" materials: cementitious siding, decorative exposed concrete, or wood

3. Other high-quality, low maintenance materials, or those materials that may be introduced in the future, may be considered based on architectural creativity by the Design Review Board.

(c) Alternatives to the building design options of Sec. 62-683(b).

(1) Large single-story buildings.

Instead of complying with Sec. 62-683(b), a single-story commercial building that is 50,000 square feet or more in size may elect as a matter of right to comply with the following standards as a set:

a. The building façade shall consist of 60~~ percent~~% masonry or stucco (not including standard cement utility blocks), excluding the window area and rear service area on sides visible to the public;

b. The building meets the "façade articulation" requirements as defined above;

c. The building has 30~~ percent~~% glazing on the front façade and 20~~ percent~~% glazing on each side visible to the public with a Visible Transmittance (VT) of 0.4 or higher; and

d. The building design incorporates a sustainable roof, solar power generation, or similar feature.

(2) Pad-site buildings with drive-in and/or drive-through services.

Instead of complying with Sec. 62-683(b), a pad-site building with a drive-in and/or drive-through services on a freeway or arterial street, may comply with the following standards as a set:

a. The portion of the building below 12 feet consists of one of the following:

1. Any of the materials mentioned in Sec. 62-683(b)(4)d; or

2. For a building that occupies a pad or portion of a building within a planned project or shopping center, the building has similar design characteristics as the rest of the

shopping center. This includes use of similar materials, patterns, rhythms, and proportions to the rest of the center.

b. Pad sites shall not have any parking located between the building and the principal street.

Division 3. Building Color

Sec. 62-684 Scope and Purpose.

(a) Purpose.

The purpose of this division is to establish an exterior color palette for commercial buildings, which is recognized as enhancing property values and is in the interest of the general welfare of the City.

(b) Scope and enforcement.

(1) The provisions of this division shall be administered by the Director of Planning and Development Services or designee.

(2) The standards and criteria contained within this section and the approved commercial color palette are deemed to be minimum standards and shall apply to all ~~non-~~nonresidential buildings within the City, with the exceptions listed below.

(3) All commercial building facades and roofs shall consist of only colors from the color palette approved by the City Council, as may be amended by the Design Review Board, and maintained in the Planning and Development Services ~~office~~Department. All other colors shall be limited to accent colors and may be used on a percentage of the façade as determined below:

a. For any commercial building of 49,999 square feet or less, accent colors may be used on no greater than ~~fifteen percent~~15% of the façade on which the accent color is applied.

b. For any commercial building of 50,000 square feet up to 149,999 square feet, accent colors may be used on no greater than ~~ten percent~~10% of the façade on which the accent color is applied.

c. For any commercial building of 150,000 square feet or greater, accent colors may be used on no greater than ~~five percent~~5% of the façade on which the accent color is applied.

(4) When utilizing brick, colors normally found in manufactured fired brick are permitted. All colors of natural stone are permitted.

(5) After ~~the effective date of this ordinance~~February 2, 2015, when any color change is proposed on the exterior of any existing commercial building, color samples shall be submitted for approval and the complete exterior color palette of that building shall be brought into compliance with this ordinance.

(6) Existing commercial buildings may continue to utilize colors in a manner not allowed by the provisions of this division provided that repainting is done for maintenance purposes only and the existing color is continued.

(7) Provisions of this division or the Building Design Guidelines shall not apply to the following:

a. Single family, two-family (duplex), or multi-family residential construction;

b. Structures in historic preservation or other overlay districts, if applicable design standards already exist for those districts and a conflict exists between those standards and this division; or

c. Temporary uses lasting no longer than six months.

Sec. 62-685 Conflicts.

(a) Conflicts with ~~p~~Planned ~~d~~Development ~~d~~District ordinances.
Where provisions of a ~~p~~Planned D~~d~~evelopment (PD) ~~d~~District ordinance specify exterior color requirements for a project, provisions of the ~~planned development~~ PD ~~d~~District control. Where a ~~planned development~~ PD ~~d~~District ordinance does not address exterior color requirements for a project, this division shall control.

(b) Conflicts with other ordinances.
All applicable provisions of the ~~z~~Zoning ~~o~~Ordinance, ~~s~~Subdivision ~~o~~Ordinance, building codes, and other ordinances shall apply. Unless exempted by Sec. 62-684(b)(7)~~section 62-680(b)(8) above,~~ when provisions of other ordinances or guidelines conflict with this division or the approved commercial color palette, the more restrictive provision shall control.

62-686 Commercial building colors application and approval.

(a) Application.

(1) Along with the submission of an application for any building permit necessary for the development or redevelopment of property subject to the provisions of this article, the following must also be submitted to evaluate compliance with this division:

a. A site plan showing the building footprint and all site elements in sufficient detail to demonstrate compliance with this division;

b. Sample building materials and color details (including color samples);

c. A table of vertical square footage and percentage of each building material or paint color for each facade; and

d. All other information necessary to demonstrate compliance this division.

(2) If the applicant has not submitted sufficient information to demonstrate conformance with the required standards, the application may be found to be administratively incomplete and the application will not be further reviewed until complete information is submitted.

(b) Approval process.
The design standards elements application shall be reviewed within 15 business days unless otherwise noted below.

Sec. 62-687 Variances.

(a) When a property owner can show that a strict application of the terms of this division will impose upon him unusual and practical difficulties or particular hardship, including instances where an applicant has previously utilized exterior building colors in strict conformance with approved architectural and site standards plans and such approval was erroneously granted by the Director of Planning and Development Services or designee, a variance from the strict application of this division may be granted by the Design Review Board; provided that:

(1) The variance requested is in harmony with the general purpose and intent of this division and the approved commercial color palette;

(2) For franchises or chains, the applicant demonstrates that:

a. The applicant is an established franchise or chain;

b. The proposed colors or materials are part of its corporate branding; and

c. The applicant provides all of the alternative color or material schemes the franchise or chain has used previously.

(3) The Design Review ~~b~~Board is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate a demonstrable and unusual hardship or difficulty; and

(4) The Design Review ~~b~~Board is satisfied that there will be no adverse impact on surrounding property.

(b) The applicant may appeal the decision of the Design Review Board to the City Council according to the procedures outlined below under appeal of decision.

(c) Findings.
Such findings of the Design Review Board, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Design Review Board meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this division. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Formal application.
All requested variances from this division shall be made in the form of a formal application prior to consideration by the Design Review Board. Submittal shall be made in the ~~office of~~ Planning and Development Services Department.

Sec. 62-688 Appeal of Staff interpretation.

An applicant may appeal staff's interpretation of this division by:

(a) Submitting a written request to the ~~d~~Director of ~~d~~Development ~~s~~Services for an appeal of interpretation.

(b) Within 30 days, the Design Review Board will hear the appeal and review all related documentation submitted as part of the building color application. The applicant may be requested to submit additional information in support of the appeal.

(c) After hearing the appeal, the Design Review Board will issue a final decision of approval or denial. If the Design Review Board denies the appeal, the applicant may appeal the decision of the Design Review Board to the City Council. The request for appeal must be made in writing within ten days of the Design Review Board's decision, according to the process listed below regarding appeal of decision.

Sec. 62-689 Appeal of Design Review Board decision.

(a) Request by applicant.
If applicant disagrees with the final decision of the Design Review Board, the applicant may appeal the decision to the City Council. The request for appeal must be made in writing within ten days of the Design Review Board's decision.

(b) City Council review.
Following the filing of a notice of appeal, the City Council shall, within 30 days, conduct a review of the decision of the Design Review Board. In its review of the decision of the Design Review Board, the City Council shall utilize the same criteria set forth for the consideration of the Design Review Board for review.

(c) Failure of City Council to act on appeal of variance decision.
An application for a variance is automatically granted if the City Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sec. 62-690 Permitting and occupancy.

(a) No building permit shall be issued for any development subject to the provisions of this division until color samples, which meet or exceed the standards set forth herein have been approved by the Director of Planning and Development Services ~~or designee~~.

(b) A certificate of occupancy shall not be issued for any development which is required to meet the provisions of this article, unless it is constructed in accordance with the requirements of this division.

Sec. 62-691 Noncompliance.

If at any time after the issuance of a certificate of occupancy the building exterior or site is altered in such a manner as to utilize colors in a manner not allowed by this division, the designee of the Director of Planning and Development Services shall issue a notice of noncompliance to the owner, citing the violation and describing action required to comply with this division.

(a) The owner, tenant, and/or agent shall, within 30 days of said notice:

(1) Submit revised exterior building color samples and plans, which meet standards outlined in this division; or

(2) Make reasonable progress toward restoring the building and site to its approved form, or, if no progress can be made within 30 days due to weather or other factors, receive a waiver from the ~~d~~Director of ~~d~~Development ~~s~~Services for this requirement.

(b) If, within 90 days of the date of notice of noncompliance, full restoration in compliance with original or revised and approved plans has not been made, the owner, tenant, and/or agent shall be held in violation of this division.

Sec. 62-692 Commercial Color Palette.

(a) All standard colors from the Sherwin Williams color palette, or their match in other paint company palettes, not listed as limited colors below are considered as approved commercial color palette options.

(b) Limited Colors.
The following colors may only be used on 5-15% of the building façade, depending on the building size.

Color Strip Number	Color Name	Paint Number
81	Venus Pink	6560
81	Teaberry	6561
81	Irresistible	6562
81	Rosebay	6563
81	Red Clover	6564
81	Grandeur Plum	6565
81	Framboise	6566
82	Anemone	6567

Color Strip Number	Color Name	Paint Number
82	Lighthearted Pink	6568
82	Childlike	6569
82	Haute Pink	6570
82	Cyclamen	6571
82	Ruby Shade	6572
82	Juneberry	6573
83	Rosily	6574
83	Priscilla	6575

Color Strip Number	Color Name	Paint Number
83	Azalea Flower	6576
83	Jaipur Pink	6577
83	Tuberose	6578
83	Gala Pink	6579
83	Cerise	6580
84	Verbena	6581
84	Impatiens Petal	6582
84	In the Pink	6583
84	Cheery	6584
84	Coming up Roses	6585
84	Heartfelt	6586
84	Valentine	6587
85	Diminutive Pink	6588
85	Alyssum	6589
85	Loveable	6590
85	Amaryllis	6591
85	Grenadine	6592
85	Coral Bells	6593
85	Poinsettia	6594
86	Amour Pink	6595
86	Bella Pink	6596
86	Hopeful	6597
86	Dishy Coral	6598
86	Begonia	6599
86	Enticing Red	6600
86	Tanager	6601
87	Angelic	6602
87	Oleander	6603
87	Youthful Coral	6604
87	Charisma	6605
87	Coral Reef	6606
87	Red Tomato	6607
87	Rave Red	6608
88	Touching White	6609
88	Koral Kicks	6610
88	Jovial	6611
88	Ravishing Coral	6612
88	Lei Flower	6613
88	Quite Coral	6614
88	Peppery	6615
89	Feather White	6616
89	Blushing	6617
89	Cosmetic Peach	6618
89	Sockeye	6619
89	Rejuvenate	6620
89	Emotional	6621
89	Hearty Orange	6622

Color Strip Number	Color Name	Paint Number
90	Teasing Peach	6623
90	Peach Blossom	6624
90	Certain Peach	6625
90	Sunset	6626
90	Emberglow	6627
90	Robust Orange	6628
91	Posy	6630
91	Naïve Peach	6631
91	Neighborly Peach	6632
91	Inventive Orange	6633
91	Copper Harbor	6634
91	Determined Orange	6635
92	Organza	6637
92	Flattering Peach	6638
92	Avid Apricot	6639
92	Tangerine	6640
92	Outgoing Orange	6641
92	Rhumba Orange	6642
92	Yam	6643
93	Champagne	6644
93	Frangipane	6645
93	Orange Blast	6646
93	Exciting Orange	6647
93	Kumquat	6648
93	Tango	6649
93	Marquis Orange	6650
94	Cherish Cream	6651
94	Flan	6652
94	Delicious Melon	6653
94	Surprise Amber	6654
94	Adventure Orange	6655
94	Serape	6656
94	Amber Wave	6657
95	Welcome White	6658
95	Captivating Cream	6659
95	Honey Blush	6660
95	Papaya	6661
95	Summer Day	6662
95	Saffron Thread	6663
95	Marigold	6664
96	Gardenia	6665
96	Enjoyable Yellow	6666
96	Afterglow	6667
96	Sunrise	6668
96	Yarrow	6669
96	Gold Crest	6670
96	Curry	6671

Color Strip Number	Color Name	Paint Number
97	Morning Sun	6672
97	Banana Cream	6673
97	Jonquil	6674
97	Afternoon	6675
97	Butterfield	6676
97	Goldenrod	6677
97	Sunflower	6678
98	Full Moon	6679
98	Friendly Yellow	6680
98	Butter Up	6681
98	June Day	6682
98	Bee	6683
98	Brittlebrush	6684
98	Trinket	6685
99	Lemon Chiffon	6686
99	Lantern Light	6687
99	Solaria	6688
99	Overjoy	6689
99	Gambol Gold	6690
99	Glitzy Gold	6691
99	Auric	6692
100	Lily	6693
100	Glad Yellow	6694
100	Midday	6695
100	Quilt Gold	6696
100	Nugget	6697
100	Kingdom Gold	6698
100	Crispy Gold	6699
101	Daybreak	6700
101	Moonraker	6701
101	Lively Yellow	6702
101	Frolic	6703
101	Hep Green	6704
101	High Strung	6705
101	Offbeat Green	6706
102	Narcissus	6707
102	Springtime	6708
102	Gleeful	6709
102	Mélange Green	6710
102	Parakeet	6711
102	Luau Green	6712
102	Verdant	6713
103	Citrine	6714
103	Lime Granita	6715
103	Dancing Green	6716
103	Lime Rickey	6717
103	Overt Green	6718

Color Strip Number	Color Name	Paint Number
103	Gecko	6719
103	Paradise	6720
104	Enlighted Lime	6721
104	Cucumber	6722
104	Jardin	6723
104	Mesclun Green	6724
104	Pickle	6725
104	Tailpot Palm	6726
104	Houseplant	6727
105	White Willow	6728
105	Lacewing	6729
105	Romaine	6730
105	Picnic	6731
105	Organic Green	6732
105	Grasshopper	6733
105	Espalier	6734
106	Minted	6735
106	Jocular Green	6736
106	Kiwi	6737
106	Vegan	6738
106	Eco Green	6739
106	Kilkenny	6740
106	Derbyshire	6741
107	Lighter Mint	6742
107	Mint Condition	6743
107	Reclining Green	6744
107	Lark Green	6745
107	Julep	6746
107	Argyle	6747
107	Greens	6748
108	Embellished Blue	6749
108	Waterfall	6750
108	Refresh	6751
108	Larchmere	6752
108	Jargon Jade	6753
108	Ionian	6754
108	Starboard	6755
109	Crystal Clear	6756
109	Tame Teal	6757
109	Aqueduct	6758
109	Cooled Blue	6759
109	Rivulet	6760
109	Thermal Spring	6761
109	Poseidon	6762
110	Retiring Blue	6763
110	Swimming	6764
110	Spa	6765

Color Strip Number	Color Name	Paint Number
110	Mariner	6766
110	Aquarium	6767
110	Gulfstream	6768
110	Maxi Teal	6769
111	Bubble	6770
111	Bathe Blue	6771
111	Cay	6772
111	Rapture Blue	6773
111	Freshwater	6774
111	Briny	6775
111	Blue Nile	6776
112	Carefree	6777
112	Aviary Blue	6778
112	Liquid Blue	6779
112	Nautilus	6780
112	Jamaica Bay	6781
112	Cruising	6782
112	Amalfi	6783
113	Bravo Blue	6784
113	Quench Blue	6785
113	Cloudless	6786
113	Fountain	6787
113	Capri	6788
113	Blue Mosque	6789
113	Adriatic Sea	6790
114	Lauren’s Surprise	6791
114	Minor Blue	6792
114	Bluebell	6793
114	Flyway	6794
114	Major Blue	6795
114	Blue Plate	6796
114	Jay Blue	6797
115	Iceberg	6798
115	Soar	6799
115	Something Blue	6800
115	Regale Blue	6801
115	Jacaranda	6802
115	Danube	6803
115	Dignity Blue	6804
116	Glass Bead	6805
116	Rhythmic Blue	6806
116	Wondrous Blue	6807
116	Celestial	6808
116	Lobelia	6809
116	Lupine	6810
116	Honorable Blue	6811
117	White Iris	6812

Color Strip Number	Color Name	Paint Number
117	Wishful Blue	6813
117	Breathtaking	6814
117	Awesome Violet	6815
117	Dahlia	6816
117	Gentian	6817
117	Valiant Violet	6818
118	Minuet White	6819
118	Inspired Lilac	6820
118	Potentially Purple	6821
118	Wisteria	6822
118	Brave Purple	6823
118	Forget-Me-Not	6824
118	Izmir Purple	6825
119	Whimsical White	6826
119	Elation	6827
119	Rhapsody Lilac	6828
119	Magical	6829
119	Kismet	6830
119	Clematis	6831
119	Impulsive Purple	6832
120	White Lilac	6833
120	Spangle	6834
120	Euphoric Lilac	6835
120	Novel Lilac	6836
120	Baroness	6837
120	Vigorous Violet	6838
120	Kimono Violet	6839
121	Exuberant Pink	6840
121	Dynamo	6841
121	Forward Fuschia	6842
121	Hot	6843
121	Eros Pink	6860
121	Radish	6861
121	Cherries Jubilee	6862
121	Lusty Red	6863
122	Merry Pink	6844
122	Child’s Play	6845
122	Prominent Pink	6846
122	Ice Plant	6847
122	Panache Pink	6848
122	Partytime	6849
122	Vivacious Pink	6850
122	Hibiscus	6851
123	Desire Pink	6852
123	Fussy Pink	6853
123	Impatient Pink	6854
123	Dragon Fruit	6855

Color Strip Number	Color Name	Paint Number
123	Reverie Pink	6856
123	Pink Moment	6857
123	Zany Pink	6858
123	Feverish Pink	6859
124	Cherry Tomato	6864
124	Gypsy Red	6865
124	Heartthrob	6866
124	Fireworks	6867
124	Real Red	6868
124	Stop	6869
124	Ablaze	6870
124	Positive Red	6871
125	Gaiety	6872
125	Coral Bead	6873
125	Ardent Coral	6874
125	Gladiola	6875
125	Comical Coral	6876
125	Inner Child	6877
125	Animated Coral	6878
125	Daring	6879
126	Energetic Orange	6880
126	Cayenne	6881
126	Daredevil	6882
126	Raucous Orange	6883
126	Obstinate Orange	6884
126	Knockout Orange	6885
126	Invigorate	6886
126	Navel	6887
127	Pizzazz Peach	6888
127	Stirring Orange	6889
127	Osage Orange	6890
127	Mandarin	6891
127	Solé	6896
127	Sundance	6897
127	Social Butterfly	6898
127	Nasturtium	6899
128	Carnival	6892
128	Kid’s Stuff	6893
128	Forceful Orange	6894
128	Laughing Orange	6895
128	Gusto Gold	6904
128	Goldfinch	6905
128	Citrus	6906
128	Forsythia	6907
129	Optimistic Yellow	6900
129	Daffodil	6901
129	Decisive Yellow	6902

Color Strip Number	Color Name	Paint Number
129	Cheerful	6903
129	Fun Yellow	6908
129	Lemon Twist	6909
129	Daisy	6910
129	Confident Yellow	6911
130	Glisten Yellow	6912
130	Funky Yellow	6913
130	Eye Catching	6914
130	Citronella	6915
130	Impetuous	6916
130	Nervy Hue	6917
130	Humorous Green	6918
130	Fusion	6919
131	Center Stage	6920
131	Electric Lime	6921
131	Outrageous Green	6922
131	Festival Green	6923
131	Direct Green	6924
131	Envy	6925
131	Lucky Green	6926
131	Greenbelt	6927
132	Green Vibes	6928
132	Witty Green	6929
132	Laudable Lime	6930
132	Jolly Green	6931
132	Spirited Green	6932
132	Clean Green	6933
132	Rally Green	6934
132	Straightforward Green	6935
133	Aquatint	6936
133	Tantalizing Teal	6937
133	Synergy	6938
133	Turquish	6939
133	Workout Green	6984
133	Green Jewel	6985
133	Active Green	6986
133	Jitterbug Jade	6987
134	Biscay	6940
134	Nifty Turquoise	6941
134	Splashy	6942
134	Intense Teal	6943
134	Pool Blue	6944
134	Belize	6945
134	Surfer	6946
134	Tempo Teal	6947
135	Blue Bauble	6948

Color Strip Number	Color Name	Paint Number
135	Slick Blue	6949
135	Calypso	6950
135	Cote D' Azur	6951
135	Blue Click	6952
135	Candid Blue	6953
135	Resonant Blue	6954
135	Impromptu	6955
136	Blue Refrain	6956
136	Undercoat	6957
136	Dynamic Blue	6958
136	Blue Chip	6959
136	Pulsating Blue	6964
136	Hyper Blue	6965
136	Blueblood	6966
136	Frank Blue	6967
137	Bewitching Blue	6960
137	Blue Beyond	6961
137	Dazzle	6962
137	Sapphire	6963
137	Hyacinth Tint	6968
137	Indulgent	6969
137	Venture Violet	6970
137	Morning Glory	6971
138	Joyful Lilac	6972
138	Free Spirit	6973
138	Plum Blossom	6974
138	Lavish Lavender	6975
138	Vanity Pink	6976
138	Queenly	6977
138	Drama Violet	6978
138	Verve Violet	6979
139	Gutsy Grape	6980
139	Passionate Purple	6981
139	African Violet	6982
139	Fully Purple	6983
140	Chelsea Mauve	2
140	Queen Anne Lilac	21
140	Cabbage Rose	3
140	Pewter Tankard	23
140	Mulberry Silk	1
140	Rose Brocade	4
140	Patchwork Plum	22
140	Deepest Mauve	5
141	Crewel Tan	11
141	Wickerwork	10
141	Curio Gray	24
141	Empire Gold	12

Color Strip Number	Color Name	Paint Number
141	Eastlake Gold	9
141	Decorous Amber	7
141	Cajun Red	8
141	Toile Red	6
142	Festoon Aqua	19
142	Calico	17
142	Peacock Plume	20
142	Teal Stencil	18
142	Majolica Green	13
142	Sheraton Sage	14
142	Gallery Green	15
142	Billiard Green	16
143	Porcelain	53
143	Classic Light Buff	50
143	Classic Ivory	51
143	Classic Sand	56
143	Twilight Gray	54
143	Pearl Gray	52
143	Silver Gray	49
143	Light French Gray	55
144	Indian White	35
144	Buckram Binding	36
144	Ruskin Room Green	42
144	Peristyle Brass	43
144	Morris Room Grey	37
144	Roycroft Adobe	40
144	Rembrandt Ruby	33
144	Antiquarian Brown	45
145	White Hyacinth	46
145	Hubbard Squash	44
145	Roycroft Rose	34
145	Portrait Tone	39
145	Library Pewter	38
145	Studio Blue Green	47
145	Bunglehouse Blue	48
145	Dard Hunter Green	41
146	Caen Stone	28
146	Colonial Yellow	30
146	Aristocrat Peach	27
146	Rachel Pink	26
146	Rosedust	25
146	Acanthus	29
146	Dutch Tile Blue	31
146	Needlepoint Navy	32
147	Jazz Age Coral	58
147	Studio Mauve	62

Color Strip Number	Color Name	Paint Number
147	Frostwork	59
147	Blue Sky	63
147	Salon Rose	61
147	Alexandrite	60
147	Blue Peacock	64
147	Chinese Red	57
148	Belvedere Cream	67
148	Rose Tan	69
148	Pink Shadow	70
148	Orchid	71
148	Copen Blue	68
148	Cascade Green	66
148	Vogue Green	65
148	Deep Maroon	72
149	Sunbeam Yellow	78
149	Apple blossom	76
149	Pinky Beige	79
149	Chartreuse	73
149	Holiday Turquoise	75
149	Radiant Lilac	74
149	Classic French Gray	77
149	Pink Flamingo	80
A	Bohemian Black	6988
A	Domino	6989
A	Caviar	6990
A	Tricorn Black	6258
A	Black Magic	6991
A	Inkwell	6992
A	Black of Night	6993
A	Greenblack	6994

Sections 62-693-62-697. Reserved.

Article XI. "Compliance and Enforcement"

Sec. 62-698 Generally.

(a) Court action.
On behalf of the City, the ~~c~~City ~~a~~Attorney shall, when directed by the ~~c~~City ~~c~~Council, institute appropriate action in a court of competent jurisdiction to enforce the provision of this chapter or the standards referred to herein with respect to any violation thereof which occurs within the City.

(b) Notice of alleged violation.
Whenever the ~~c~~City ~~m~~Manager or his or her designee determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, he or she shall give notice of such alleged violation to the person to whom the permit or license was issued, as herein provided. Such notice shall:

(1) Be in writing.

(2) Include a statement of the reason for its issue.

(3) Allow a reasonable time for the performance of the act if required.

(4) Be served upon the owner or his or her agent as the case may require, provided that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any method authorized or required by the laws of this state.

(5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this section.

(c) Reinspection.
At the end of such period as noted in Sec. 62-698(b)~~subsection (b) above~~, the ~~c~~City ~~m~~Manager or his or her designee shall reinspect the site and, if such conditions or practices have not been corrected they shall suspend any permits or certificates and give notice of such suspension, and such person shall cease activities.

Sec. 62-699 Penalties.

Any person violating any provision of this chapter, upon conviction, is punishable in accordance with ~~section~~ the general penalty provisions of City Code Sec. 1-14.

3.

That the entire text of Chapter 130, Zoning Ordinance is hereby repealed and replaced to read as follows:

Chapter 130 – "Zoning Ordinance"

Article 1. "In General"

Sec. 130-1 Enacting clause.
That this ~~c~~Comprehensive ~~z~~Zoning ~~o~~Ordinance, also known as the "~~z~~Zoning ~~o~~Ordinance," of the City, is passed and approved on December 11, 1989, together with the official zoning map to read as set out herein.

Sec. 130-2 Purpose.

The zoning regulations and districts as herein established have been made in accordance with adopted guiding principles for the purpose of promoting the health, safety, morals, and general welfare of the City. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic, and other dangers; to ensure adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district, and its suitability and compatibility for the particular uses specified; and with a view to conserving the value of buildings and neighborhoods, and encouraging the most appropriate use of land throughout the City. *(Code 1988, App. A, §2; Ord. No. 1468, §2, 4-27-2004)*

Sec. 130-3 Definitions.

The following words, terms and phrases, when used in this chapter or when used in Chapter 62 (Land and Site Development Ordinance), shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words and terms that are not expressly defined in this chapter or in Chapter 62 have their ordinary dictionary meanings, based on the latest edition of Merriam-Webster's Unabridged Dictionary. ~~For the purposes of this chapter, the following terms, phrases, and words, shall have the meaning ascribed to them in this section.~~ When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural; and words used in the plural number include the singular. ~~Definitions not expressly prescribed herein are to be determined according to customary usage.~~

Accessory dwelling unit shall mean a subordinate structure located on the same lot or parcel as the main structure which is incidental to the main use of the structure and is used as a residence.

Accessory structure shall mean a subordinate structure or a portion of the main structure located on the same lot as the main structure, the use of which is incidental to that of the dominant use of the structure or premises. Accessory structures may include parking garages, adjacent farm structures, home workshops and toolhouses, storage sheds, home greenhouses. Carports as defined by this chapter are not considered to be accessory structures.

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

Adult entertainment means a group of land uses involved in providing entertainment or amusement to a person or persons, such a type of land use being an adult arcade, adult bookstore, adult cabaret, adult escort agency, adult massage establishment, adult motel, adult movie theater, adult novelty store, adult service establishment, adult video store, sex parlor, sexual encounter center nude modeling studio, or other adult entertainment uses. "Other adult entertainment use" also includes any other commercial enterprise, that has as a primary business purpose of offering of a service or the selling, renting or exhibiting of material, devices or any other items, intended to provide sexual stimulation or sexual gratification to its customers, and which material, devices or any other items is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity. The following definitions for various types of adult entertainment uses shall be applicable:

1. "*Primary business purpose*", is defined to mean that a main purpose or major "drawing card" of the business, among any other primary or secondary business purposes, is providing sexual stimulation or

gratification through the offering of a service or the selling, renting or exhibiting of material, devices or any other items intended to provide sexual stimulation or sexual gratification to its customers and which material, devices or any other items is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity, but is not intended to include businesses whose entire activities might only be an incidental cause of sexual stimulation or gratification, and whose activities do not involve nudity nor material, devices or any other items distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, with "incidental cause" defined as happening as a chance or undesigned feature of something else; random; not of prime concern; subordinate to; or, as in accidentally cause. "A primary business purpose" of providing sexual stimulation or gratification may be demonstrated by the presence of one or more of the following factors and terms:

A. The exclusion of minors, persons under the age of 18 years, from the establishment or premises of the building by law or by option of the establishment, due to in part or in whole, to the offering of a service or the selling, renting or exhibiting of devices, material, merchandise or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity; or,

B. The exclusion of minors, persons under the age of 18 years, from any portion of the overall floor space of premises containing merchandise displayed for sale and open to customers, excluding restroom or dressing rooms, by law or by option of the establishment, due to in part or in whole, to the offering of a service or the selling, renting or exhibiting of devices, material, merchandise or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity; or,

C. The visibility, prominence or accessibility to customers of material distinguished by or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas; or,

D. A significant or substantial portion of the retail sales or revenue, the retail value of inventory, amount of retail floor space, amount of display areas or the amount of inventory attributable to or composed of material, services or products distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. ("Inventory" shall be measured with all titles or objects available on the premises for sale or rental including each of those items that are identical, or considered a separate title or object. "Significant or substantial portion" means more than an insignificant or incidental portion, does not depend upon a specific percentage or ratio, and does not necessarily mean a majority or predominant amount);or,

E. Any other fact, circumstance, or evidence which is relevant to demonstrate the type and quantity of merchandise or service that the establishment sells, rents, offers for sale or rent, displays or exhibits as constituting or composing a primary business purpose of the business

2. *Adult arcade* means a type of adult entertainment use involving or consisting of any place or premises a type of adult entertainment use involving or consisting of any place or premises to which the public is permitted or invited wherein coin-operated, token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing

devices are maintained to show images to ~~five (5)~~5 or fewer persons per machine at any ~~one (1)~~one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical area, as one of its primary business purposes.

3. *Adult bookstore* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment which as one of its primary business purposes, engages in the offering for sale or rental, for any form of consideration, any one or more of the following:

   A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas, intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; or

   B. Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities. “Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities” does not include items used for birth control, for prevention of sexually transmitted diseases or any other such items available only by prescription from licensed pharmacies

4. *Adult cabaret* means a type of adult entertainment use involving or consisting of any place or premises of a nightclub, bar, restaurant, or similar commercial establishment that has a primary business purpose of the offering to customers of live entertainment, that includes entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," which regularly features:

   A. Persons who appear in a state of nudity; or

   B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or

   C. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."; or

   D. That regularly features live performances such as dancing that is characterized by the exposure of any portion of the human form other than the pubic region

5. *Adult massage establishment* means a type of adult entertainment use involving or consisting of any place or premises of any establishment or agency which that has as one of its primary business purposes of giving massages for a fee or other consideration, at the establishment or on a home-call basis, that is not licensed or not operated within strict compliance with applicable statutory law and the regulatory rules promulgated by Texas Department of State Health Services, or other regulatory agency, with respect to all licensing requirements and rules of the State of Texas, and where employees engage in any form of specified sexual activities with customers.

6. *Adult motel* means a type of adult entertainment use involving or consisting of any place or premises of a hotel, motel or similar commercial establishment which:

A. Offers accommodations to the public for any form of consideration and provides patrons with television transmission to rooms of films, motion pictures, video cassettes, slides, or other pornographic reproductions which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas as one of its primary business purposes; or

B. Offers a sleeping room for rent for a period of time that is less than ~~ten (10)~~10 hours; or

C. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ~~ten (10)~~10 hours.

7. *Adult movie theater* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, video reproductions, slides or other visual representations, or any combination thereof, are regularly shown which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas, as one of its primary business purposes.

8. *Adult novelty store* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment which offers for sale or rental for any form of consideration, any ~~one (1)~~one or more of the following: Instruments, devices, including genital stimulation devices, or other paraphernalia which are designed or manufactured for use in connection with specified sexual activities regardless of the nature of any other products or services sold or provided, but not including items used for bona fide birth control or for prevention of sexually transmitted diseases, and not including any items available for purchase only by prescription from licensed pharmacies.

9. *Adult service establishment* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment which offers services or sells products to customers and in which ~~one (1)~~one or more of the employees or the customer appears in a state of nudity or simulated nudity.

10. *Adult video store* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment which as one of its primary business purposes, engages in the offering for sale or rental, for any form of consideration, any one or more of the following:

    A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas, or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; or

    B. Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities. "Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities" does not include items used for birth control, for prevention of sexually transmitted diseases or any other such items available only by prescription from licensed pharmacies.

11. *Customer* means any person who:

    A. Is allowed to enter a sexually oriented business in return for the payment of an admission fee or any other form of consideration or gratuity; or

B. Enters a sexually oriented business and purchases, rents, or otherwise partakes of any merchandise, goods, entertainment, or other services offered therein; or

C. Is a member of and on the premises of a sexually oriented business operating as a private club.

12. "*Distinguished by or characterized by an emphasis upon*" means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas" the films so described are those whose dominant or principal character and theme are the exhibition or display of "specified sexual activities" or "specified anatomical areas."

13. *Employee* means any person who renders any service whatsoever to the customers of a sexually oriented business or who works in or about a sexually oriented business and who receives compensation for such service or work from the operator or owner of the sexually oriented business or from its customers.

14. *Escort* means a person who, for consideration, agrees or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

15. *Escort agency* means a type of adult entertainment use involving or consisting of any place or premises where a person or business association who, which as one of its primary business purposes, furnishes, offers to furnish, or advertises to furnish escorts, or any combination thereof, for a fee, tip, or other consideration.

16. "*Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities*" does not include items used for birth control, for prevention of sexually transmitted diseases or any other such items available only by prescription from licensed pharmacies.

17. *Manager* means any person (1) who supervises, directs or manages any employee of a sexually oriented business or (2) who is charged by the licensee, owner, or operator with directly supervising the operation of the sexually oriented business and with monitoring and observing all areas of the enterprise to which customers are admitted at all times during which the enterprise is open for business or customers are on the premises.

18. *Nude modeling studio* means a type of adult entertainment use involving or consisting of any place or premises where a person who appears in a state of nudity or displays specified anatomical areas, is provided or allowed to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, except as may be provided for under the "exclusions" from the definition of ~~Section 130-3, Definitions, adult entertainment, (31) Exclusions~~"adult entertainment," as expressly set forth within these definitions.

19. *Nudity or state of nudity* means less than completely and opaquely covered:

A. Human genitals, pubic region, or pubic hair;

B. All portions of a female breast below a point immediately above the top of the areola continuing downward to the lowest portion of the breast;

C. Human buttock; or

D. Any combination of the above.

20. *Operated or causes to be operated* means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated, an adult entertainment use whether or not that person is an owner, part owner, licensee, or manager of the establishment.

21. *Person* means an individual, firm, association, organization, partnership, trust, foundation, company or corporation.

22. *Regularly* means featuring, promoting, performing, permitting, doing or advertising an event or other happening or occurrence on a recurring or routine basis involving any length of time.

23. *Premises* mean the building of the adult entertainment establishment.

24. *Sex parlor* means a type of adult entertainment use involving or consisting of any place or premises of an establishment that is operated for the purpose of giving massages for a fee or other consideration at the establishment or on a home-call basis, that are intended to provide sexual stimulation, sexual gratification or engage in, in combination with a massage or other physical contact, including specified sexual activities, as one of its primary business purposes.

25. *Sexual encounter center* means a type of adult entertainment use involving or consisting of any place or premises of a business or commercial enterprise that offers for a fee or other consideration, any physical contact in the form of wrestling or tumbling between persons of the opposite sex, or specified sexual activities between male and female persons and/or persons of the same sex, or other activities when ~~one (1)~~one or more of the persons is in a state of nudity or simulated nudity.

26. *Simulated nudity* means a state of dress in which any device or covering is worn and exposed to view that simulates any part of the genitals, buttocks, anus, pubic region, or areola of the female breast.

27. *Specified anatomical areas* means:

    A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

    B. Less than completely and opaquely covered human genitals, pubic hair, buttocks, or a female breast below a point immediately above the top of the areola, or any combination thereof.

28. *Specified sexual activities* means any of the following:

    A. The fondling or other erotic touching of another person's human genitals, pubic region, buttocks, anus, or female breasts; or

    B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, bestiality or sodomy; or

    C. Excretory functions as part of, or in connection with, any of the activities set forth in (1) and 2, above.

29. *Sexual oriented business* means those businesses or uses as defined under the definition of “adult entertainment”.

30. Exclusions: The term "adult entertainment" shall not be construed to mean or include:

    A. Any business activity or service that by federal or state law is required to be operated by or employing licensed psychologists, licensed physical therapists, registered massage therapists, registered nurses, licensed pharmacists or licensed athletic trainers engaged in practicing such licensed professions as generally recognized within their profession, including:

B. A state-registered massage establishment that employs only state-registered massage therapists to perform massage therapy; conforming to all requirements of state law and other applicable law, or

C. A state-registered massage school with at least ~~two (2)~~2 registered massage therapists that teaches the course of instruction required for registration as a massage therapist or a school approved by the Central Education Agency or that is otherwise approved by the state; or

D. A state-registered massage therapy instructor who instructs ~~one (1)~~one or more students in any section of the course of instruction required for registration as a massage therapist; or

E. Operated by or employs a licensed physical therapist whose activities fall under the control of the Texas Board of Physical Therapy Examiners or a license of another state agency performing health care services within the scope of the applicable licensing act who performs the activities for or on behalf of the business commercial enterprise.

F. Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts as its sole business;

G. Any retail establishment whose principal business is the offering of wearing apparel for sale to customers, which does not exhibit merchandise on live models, and which does not offer for sale or rental any:

H. Materials of any kind containing depictions of specified anatomical areas; or

I. Instruments, devices, or paraphernalia which are designed or manufactured for use in connection with specified sexual activities; or

J. Any activity conducted or sponsored by any Texas independent school district, licensed or accredited private school, or public or private college or university; or,

K. Any legalization or authorization to violate any applicable law, civil or penal, duly enacted by any governmental body regarding any of the activities described in these definitions under the term 'adult entertainment". Under no circumstance, is this Chapter 130 to be construed as repealing any laws of any governmental body regarding any of the activities that is illegal, currently or in the future, or may constitute or be deemed to be a nuisance.

31. Change in type of adult entertainment use or business: A change in the type of adult entertainment use or business from an adult arcade, adult bookstore, adult cabaret, adult escort agency, adult massage establishment, adult motel, adult movie theater, adult novelty store, adult service establishment, adult video store, sex parlor, sexual encounter center or nude modeling studio or other adult entertainment use into another type of adult entertainment use or business such as an adult arcade, adult bookstore, adult cabaret, adult escort agency, adult massage establishment, adult motel, adult movie theater, adult novelty store, adult service establishment, adult video store, sex parlor, sexual encounter center or nude modeling studio or other type of adult entertainment, or to any other use, constitutes a change in use as generally defined in Chapter 130~~ et sq. of the Bryan Code of Ordinances~~.

Afterhours club shall mean an establishment offering to the general public, facilities for dancing and entertainment, either for free or a fee. The establishment operates, generally, between the hours of 2am and 6am and does not serve alcoholic beverages.

Airport shall mean a place where an aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers.

Alley shall mean a minor public right-of-way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a public street.

Alteration shall mean a physical change in or to a building or site.

Amusement arcade (video arcade) shall mean any building, room, place or establishment of any nature or kind and by whatever name called, where more than ~~two~~ 2 amusement devices are operated for a profit, whether the same be operated in conjunction with any other business or not, including but not limited to such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices. Provided, however, the term "amusement device", as used herein, shall not include musical devices, billiard tables which are not coin-operated machines designed exclusively for children and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports.

Antenna shall mean an instrument or device consisting of wires, poles, rods, or reflecting discs designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum.

Antenna (commercial) shall mean an antenna primarily used for commercial broadcasting. A satellite dish in excess of 12 feet in diameter shall be considered a commercial antenna. A microwave transmitting tower is also a commercial antenna.

Antenna (noncommercial) shall mean an antenna used for amateur radio, CB radio, or TV reception. A satellite dish antenna not to exceed 12 feet in diameter shall also be considered as a noncommercial radio antenna.

Apartment building. See "~~Dwelling, multiple-family.~~Multifamily"

Assisted Living Facility shall mean a residential establishment licensed under Chapter 247 of the Texas Health and Safety Code (or its successor statute) that provides food, shelter and Personal Care Services to persons unrelated to the proprietor of the establishment.

Automobile shall mean a self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, trucks, buses, motor scooters and motorcycles.

Automobile parking lot or garage shall mean an area or structure designed for the parking of motor vehicles.

Automobile rental shall mean storage, leasing or renting of automobiles, motorcycles, and light load vehicles, but not including commercial or industrial vehicles or equipment.

Automobile repair shall mean general repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision services, including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and other similar uses. *Automobile repair* shall also include minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems, and other similar minor services for motor vehicles except heavy load vehicles.

Automobile sales shall mean the retail sale of new or used automobiles or light load vehicles.

Automobile service station shall mean any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of automobile fuels, lubricants, and automobile accessories, including those operations listed under minor automobile repair. Vehicles which are inoperative or are being repaired may not remain parked outside an automobile service station for a period greater than seven days.

Bed and breakfast shall mean a dwelling occupied as a permanent residence by an owner or renter which serves breakfast and provides sleeping accommodations in no more than ~~five~~5 rooms for transient guests for compensation. Breakfast is to be provided for overnight guests only. Bed and breakfast facilities are permitted to facilitate special events, such as wedding receptions, dinner parties, and the like.

Block shall mean a tract or parcel of land designated as such on a duly recorded plat and may be entirely surrounded by public streets or by a combination of public streets and public parks, cemeteries, railroad right-of-way, or natural or manmade physical features (e.g., ditches, gullies, ridges, etc.) that disrupt what would otherwise be an unbroken landscape.

Boardinghouse (lodginghouse) shall mean a dwelling other than a hotel, where for compensation and by prearrangement for definite periods, meals, or lodging and meals are provided for ~~three~~ 3 persons or more, but not exceeding 20 persons on a weekly or monthly basis.

Buffer shall mean a land area used to visually separate one use from another or to block or mitigate the effects of noise, lights or other nuisances. It may include required or permitted landscaping and screening, storm water detention facilities, and pedestrian walkways.

Building. See ~~structure~~"Structure". Building also may be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Cabinet shop shall mean a structure use to fabricate cabinetry for retail sale.

Carport shall mean a roofed structure open on a minimum of ~~two~~ 2 sides designed or used to shelter cars, boats, recreational vehicles or other motor vehicles.

Carwash shall mean structure used to wash motorcycles, automobiles and light load vehicles.

Cemetery shall mean property used for the interring of the dead, including columbariums, crematories, mausoleums and mortuaries.

Certificate of occupancy shall mean an official certificate issued by the City through the ~~c~~Chief ~~b~~Building ~~o~~Official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued; may be referred to as an occupancy permit.

Change of use shall mean any use which differs from the previous use of a structure or site.

Charitable use shall mean a use that provides essential goods or services, such as food, limited or emergency housing, clothing, counseling, aid, or assistance to those in need, for no fee or compensation.

Chief ~~b~~Building ~~o~~Official shall mean the official or other designated authority charged with the administration and enforcement of the building code and related regulation.

Child care:

(1) *Child care--Class A* shall mean any single-family residence which receives ~~six~~ 6 or less children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians, for regular periods of time and for compensation, excluding the caretaker's own children. The term "child care" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school. (This is considered a home occupation.)

(2) *Child care--Class B* shall mean a building or structure where care, protection, and supervision is provided, on a regular schedule, at least twice a week to at least ~~seven~~ 7 and not more than 12 children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians. The term "child care" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school. (This is not considered a home occupation.)

(3) *Child care--Class C* shall mean a building or structure where care, protection, and supervision is provided, on a regular schedule, at least twice a week to more than 12 children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians. The term "child care" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school. (This is not considered a home occupation.)

City shall mean the Municipal Corporation, City of Bryan, Texas.

City Council~~council~~ shall mean the duly and constitutionally elected governing body of the City of Bryan, Texas.

Commercial amusement (indoor) shall mean an amusement or entertainment enterprise wholly enclosed and operated within a building. This includes, but is not limited to, bowling alleys, skating rinks, billiards or pool halls, indoor tennis courts, gymnasiums, and swimming pools.

Commercial amusement (outdoor) shall mean an outdoor area or structure, open to the public which provides entertainment or amusement for a fee or admission charge, including but not limited to batting cages, miniature golf, go-cart tracks, drive-in theaters, water slides and carnivals.

Common elements shall mean, when applied to condominium, townhouse or similar developments, shall include:

(1) *General common elements* means and includes:

a. The land, whether leased or in fee simple, on which the building stands;

b. The foundations, bearing walls and columns, roofs, halls, lobbies, stairways, and entrances and exits or communication ways;

c. The basements, flat roofs, yard, and gardens, except as otherwise provided or stipulated;

d. The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;

e. The compartment of installation of central services such as power, light, gas, cold and hot water, refrigeration, central heating, reservoirs, water tanks and pumps, swimming pools, and the like;

f. The elevators and shafts, garbage incinerators and, in general all devices or installations existing for common use; and

g. All other elements of the building desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime.

(2) *Limited common elements* means and includes those common elements which are agreed upon by all of the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways, and elevators, sanitary services common to the apartments of a particular floor, and the like.

Commons shall mean an open, unobstructed space, bounded on more than ~~two~~ 2 sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

Comprehensive plan shall mean the term "comprehensive plan" or "municipal development plan" and adoptions, amendments, or supplements thereto, which has or have been adopted by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission and the ~~c~~City ~~c~~Council shall be used as a guide for future development of the City and its surrounding area.

Conceptual plan shall mean the initial plan layout determined by the developer. The plan shall be used as a tool to determine the requirements of the project and an overall design scheme.

Concrete or asphalt batching plant (permanent) shall mean a permanent manufacturing facility for the production of concrete or asphalt.

Concrete or asphalt batching plant (temporary) shall mean a temporary manufacturing facility for the production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

Condominium shall mean in a condominium each dwelling unit owner owns as his or her fee estate the space that his or her unit occupies. This is the space lying between the interior surface of the unit sides and between the floor and the ceiling. The remainder of the building and the land are called "common elements" or "common area." Each unit owner holds an undivided interest in the common elements and limited common elements as defined in the Texas Condominium Act (V.T.C.A., Property Code ch. 81).

Construction yard (temporary) shall mean a storage yard or assembly yard for building materials and equipment directly related to a specific construction project and subject to removal at completion of construction.

Country club shall mean a land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

County shall mean Brazos County, Texas.

County commissioner's court shall mean the duly and constitutionally elected governing body of Brazos County, Texas.

Covenant (deed restriction) shall mean a private legal restriction on the use of land, contained in the deed to the property or otherwise formally recorded. Deed restrictions are not enforceable by the City.

Credit access business means a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan, as those terms are defined in Section 393.601 of the Texas Finance Code, as amended.

Density shall mean levels of concentration or activity in uses such as residential, commercial, industrial, recreation, or parking.

Display, Sidewalk shall mean a display of goods and wares on a private or public sidewalk for retail sale to the public by the owner or manager of a business located in a directly adjacent, permanent, established structure which has received a certificate of occupancy and complies with all current applicable zoning, building codes, and site development requirements of the City.

Display, Outdoor shall mean the display of sample inventory, merchandise, or other items for sale, rent or lease and outside a permanent, established structure which has received a certificate of occupancy and

complies with all current applicable zoning, building codes, and site development requirements of the City.

District shall mean any section or sections of the City for which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.

Dormitory shall mean a building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar institutional use.

Duplex shall mean a dwelling with ~~two~~ 2 attached living units designed to be occupied by ~~two~~ 2 households living independently of each other.

Dwelling unit shall mean a structure or portion which is designed or used for residential purpose, including single-family, two-family, attached dwellings, multifamily dwellings, roominghouses and boardinghouses, fraternities, sororities, dormitories, manufactured homes, and modular dwellings, but not including hotels or motels.

Easement shall mean land reserved for the use of the public by the grantor, in which to install and maintain utility lines, drainage ditches or channels, or for other City or public services; the ownership or title to the land encompassed by the easement being retained by the owner. The City may specify that no building or part of a building or other permanent structure or fence, in case of a drainage easement, may be located within the limits of the easement.

Engineer shall mean a person duly authorized and licensed under the provisions of the Texas Engineering Practice Act (V.T.C.A., Occupations Code ch. 1001), as heretofore or hereinafter amended, to practice the profession of engineering.

Essential municipal uses shall mean facilities related to services traditionally provided by local government and/or private utilities, necessary for the furnishing of adequate service by such utilities or City municipal departments for the general public health, safety, convenience, and welfare. Essential municipal uses include, but are not limited to the following: communication systems, City parks, schools, City fire protection, City police substations, power substations, City or private utility systems and accessories thereto, including, but not limited to: City water storage tanks, pumps, lift stations, and other similar accessories. Essential municipal uses are permitted in all zoning districts; however, these facilities must comply with all other requirements of the ~~z~~Zoning ~~o~~Ordinance as well as the Land and ~~s~~Site ~~d~~Development ~~review o~~Ordinance and S~~s~~ubdivision ~~o~~Ordinance, or seek a variance from the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. Essential municipal uses which include aboveground utility accessory structures, such as substations, sewer lift stations, water pump stations, treatment plants, storage towers and the like are required to observe screening and buffering requirements as described in ~~section~~ Sec. 130-32.

Extraterritorial jurisdiction (ETJ) shall mean under the terms of V.T.C.A., Local Government Code ch. 42, the unincorporated area, not a part of any other City, which is contiguous to the corporate limits of the City, the outer boundaries of which are measured from the extremities of the corporate limits of the City outward for a distance of 3 1/2 miles. In the event that the ETJ of the City overlaps an area within the ETJ of one or more other cities, such overlap may be apportioned by mutual agreement of the governing bodies of the cities concerned. Such agreement shall be in writing and shall be approved by an ordinance or resolution adopted by such governing bodies.

Fabrication shall mean the manufacturing from standardized parts of a distinct object differing from the individual components.

Family shall mean any number of individuals living together in a single dwelling unit in which not more than ~~four~~ 4 individuals are unrelated by blood, marriage or adoption. Foster children residing in licensed foster care homes shall not be included in the calculation of the number of unrelated individuals living together in a single dwelling unit. Licensed foster care homes shall comply with any state mandated restrictions on the number of children permitted to reside in the dwelling unit.

Farm equipment sales and service shall mean a building or open area, other than a right-of-way or public parking area, used for the display, sale, rental or storage of farm equipment.

Feed store shall mean a building used for the display and sale of livestock feed and affiliated equipment.

Firewall shall mean a fire resistive wall, having protective openings, which restricts the spread of fire and extends continuously from the foundation to or through the roof.

Fitness center shall mean health club or similar building that provides activities and facilities such as aerobic exercises, boxing, running and jogging, exercise equipment, game courts, swimming pool, saunas, showers, massage rooms, lockers, and ancillary indoor and outdoor recreation facilities on the same premises.

Flea market shall mean a periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public. Flea markets differ from other retail stores or shopping centers in that there are no long-term leases between the sellers and owners or lessors of the site and that often the sellers use their own vehicles for display or set up temporary tables for their wares.

Floodplain shall mean an area of land subject to inundation by a 100-year frequency flood, as shown on the FEMA floodplain map of the City.

Fraternal organization, lodge, or service *club* shall mean an organized group having a restricted membership and specific purpose related to the welfare of the members and others such as Elks, Masons, Knights of Columbus, Lions Club, Fraternity or Sorority, or a labor union.

Fraternity and sorority houses shall mean a building containing sleeping rooms, bathrooms, common rooms and a central kitchen and dining room maintained exclusively for fraternity or sorority members and their guests or visitors and affiliated with an institute of higher learning.

Gaming establishment shall mean gambling facilities or other operations featuring games of chance and bingo parlors.

Garage, detached private, shall mean an enclosed (on at least ~~three~~ 3 sides) structure separate from the main residence used primarily for the storage of vehicles and secondarily for storage of household goods, and used solely by the occupants and their guests. Also called "enclosed parking space."

Gasoline service or *filling station.* See *"Automobile service station."*

Golf course shall mean an area of 20 acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses.

Group home/community home means a residential establishment licensed by the State of Texas, where not more than ~~six (6)~~6 physically or mentally impaired or handicapped persons are provided food and shelter, as well as supervised care and rehabilitation by not more than ~~two~~ 2 persons residing in the home at the same time. The limitation on the number of persons applies regardless of the legal relationship of those persons to one another. The home must be operated by

(1) The Texas Department of Mental Health and Mental Retardation;

(2) A community center organized under Subchapter A, Chapter 534, Texas Health and Safety Code, that provides services to persons with disabilities;

(3) An entity subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq. Vernon's Texas Civil Statutes);

(4) An entity certified by the Texas Department of Human Services as a provider under the medical assistance program serving person in intermediate care facilities for persons with mental retardation; or

(5) An Assisted living facility licensed under Chapter 247, Texas Health and Safety Code, provided that the exterior structure retains compatibility with the surrounding residential dwellings.

Halfway house shall mean a home for not more than ~~four~~ 4 persons who have demonstrated a tendency toward alcoholism, drug abuse, antisocial or criminal conduct, together with not more than ~~two~~ 2 persons providing supervision and other services to such persons, all of which live together as a single housekeeping unit.

Health authority shall mean the City health officer, state department of health or county health official.

Heliport shall mean an area of land or water or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

Helistop shall mean the same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

Historic Landmark Commission shall mean a board, comprised of a majority of citizens of Bryan, Texas, and appointed by the ~~c~~City ~~c~~Council as an advisory body, authorized to carry out historic preservation duties and functions as delegated by the ~~c~~City ~~c~~Council.

Historic landmark, resource, or property shall mean any building, structure, object, site, district, area or land of architectural, historical or cultural importance or value, which the ~~c~~City ~~c~~Council determines shall be protected, enhanced and preserved in the interest of the culture, prosperity, education and general welfare of the people.

Historic preservation overlay district shall mean a district which possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Historic site shall mean the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archeological value regardless of the value of any existing structure.

Home occupation shall mean any occupation or activity conducted within a dwelling unit which is clearly incidental and subordinate to the use of the premises for dwelling purposes, provided that:

(1) No retail business of any sort is involved.

(2) No stock in trade is kept nor commodities sold except those made or used on the premises.

(3) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

(4) Only members of the family residing on the premises are employed.

(5) No equipment is used which creates offensive noises, vibrations, sound, smoke or dust, odors, heat, glare, X-ray, or electrical disturbance to radio or television. In particular, a home occupation includes the following and similar uses: artist's studio; dressmaking and millinery; limited

professional practice provided no clients or customers are permitted on the premises (such as lawyer, engineer, architect, or accountant); music teaching limited to not more than ~~two~~ 2 pupils at one time.

(6) Commercial repair of automobiles shall not be permitted.

(7) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building.

(8) No home occupation shall be conducted in any accessory structure.

(9) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and require no additional parking spaces beyond those required for the dwelling unit.

(10) Child care in a place of residence which receives ~~six~~ 6 or less children is allowed as a home occupation.

(11) Home schools as classified by state requirements are allowed as a home occupation.

Homeowners association (HOA) shall mean any organized group of landowners within a developed project, with voting rights to promulgate rules and regulations over property dedicated to the ownership of the formed association.

Industrial park shall mean a large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

Integrity shall mean the authenticity of a property's historic identity, evidenced by survival of physical characteristics that existed during the property's historic or prehistoric period.

Junkyard shall mean an open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Material shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard shall be considered a junkyard.

Kennels (commercial) shall mean an establishment with indoor and/or outdoor pens in which more than ~~four~~ 4 dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for commercial purposes.

Kiosk shall mean a small, freestanding, one-story structure having a maximum floor area of 350 square feet and used for commercial purposes, such as automatic teller machines or the posting of temporary information and/or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 25 square feet.

Laundromat (self-serve washateria) shall mean a facility where patrons wash, dry or dry clean clothing and other fabrics in machines operated by the patron.

License, Mobile Home Park shall mean an authorization, or written evidence thereof, issued by the City, to maintain and operate a manufactured/mobile home park.

Lot of record shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk of the county or a lot subdivided by metes and bounds description prior to May, 1967.

Machine shop shall mean a workshop where power-driven tools are used for making, finishing, or repairing machines or machine parts.

Main structure shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.~~mean the structure or structures on a lot which are occupied by the primary use.~~

Manufactured home shall mean a HUD-Code manufactured home or a mobile home and collectively means and refers to both. The term "HUD-Code manufactured home" shall mean 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~~ 8 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 of the home. The term does not include a recreational vehicle as that term is defined by 24 CFR 3282.8(g). For use in this chapter, the terms "manufactured home" and "manufactured housing" shall be synonymous with HUD-Code manufactured home.

Manufactured home display and sales shall mean the offering for sale, storage, or display of trailers or mobile homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

Manufactured housing land lease community shall mean a residential development typified by single ownership of the land with the development, with the landowner retaining the rights of ownership. Home sites within the community are leased to individual homeowners, who retain customary leasehold rights for the placement and occupancy of individual manufactured homes (this definition excludes mobile homes).

Manufactured/mobile home park shall mean any lot, block, tract or parcel of contiguous lots, blocks, tracts or parcels of land, under common ownership, which has been so designed and improved that it contains ~~two~~ 2 or more manufactured/mobile homes or manufactured/mobile home lots available for lease or rent to the public and for the placement of mobile homes and/or manufactured homes for occupancy.

Manufacturing shall mean manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing. Such operations shall meet the performance standards, bulk controls, and other requirements of this chapter.

Masonry construction shall mean exterior construction materials including brick, stone, granite, marble, concrete and other built up/tilt panels.

Master thoroughfare plan shall mean a plan of major and secondary streets and highways, a part of the City and adaptations, amendments, or supplements thereto as developed and adopted by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission.

Medical facilities or clinics.

(1) *Dental clinic or medical clinic* shall mean a facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients provided that patients are not kept overnight except under emergency conditions.

(2) *Dental office or medical office* shall mean same as dental or medical clinic.

(3) *Hospital* shall mean an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories,

outpatient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.

(4) *Public health center* shall mean a facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.

(5) *Sanitarium* shall mean an institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.

(6) *Massage establishment* shall mean any place of business in which massage therapy is practiced by a massage therapist, as defined and licensed by state law. Equivalent terms for "massage therapy" are massage, therapeutic massage.

(7) *Minor emergency clinic* shall mean medical clinic which provides "walk-in" services for minor medical emergencies and may be open 24 hours per day.

Micro-assembly shall mean operations that are involved in processing fabrication or assembly of finished or nearly finished goods into a functioning whole, where such processing, fabrication or assembly occurs wholly within an enclosed space, and the total floor area within which assembly occurs does not exceed 75% of the gross floor area. Processing or fabrication of the already manufactured components by machinery shall be restricted so, to the extent that any related noise, vibration, and smoke, electrical interference, dust odors or heat shall not be discernible beyond the boundaries of the building within which such micro-assembly is located. The sale and/or shipment of such manufactured goods, to the general public or direct consumer, shall occur on the same premises where micro-assembly occurs. Examples include but are not limited to weaving or production of textiles or apparel, manufacture of wood products, fabrication of fashion accessories including jewelry, hats and footwear, production of home furnishings and decorative items, craft work by artisans, and assembly and packaging of already manufactured components into finished electronic instruments.

Mini-warehouse/self-storage uses shall mean uses that provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property. Accessory uses may include living quarters for a resident manager or security and leasing offices. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the mini-warehouse/ *self-storage* use. Examples include facilities that provide individual storage areas for rent.

Mobile home shall mean a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the travel mode, is ~~eight~~ 8 body feet or more in width, 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 of the home.

Model home shall mean a single-family dwelling in a developing subdivision located on a legal lot of record that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built in the same subdivision.

Modular building/housing (industrialized building) shall mean a structure or building module as defined, under the jurisdiction and control of the Texas Department of Licensing and Regulation and the Texas Industrialized Building Code Council and that is installed and used by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical

systems contained in the structure. The term does not include a mobile/manufactured home as defined in the Texas Manufactured Housing Standards Act (V.T.C.A., Occupations Code ch. 1201).

Motel or *hotel* shall mean a building or group of buildings designed for and occupied as a temporary dwelling place for individuals and providing ~~four~~ 4 or more rooming units where customary hotel services such as linen, maid service, telephone, and upkeep of furniture is provided.

Motorcycle shall mean a two-wheeled self-propelled vehicle having one or ~~two~~ 2 saddles or seats, and which may have a sidecar attached. For purposes of this chapter, motorbikes, motor scooters, mopeds, ~~three~~ 3 or ~~four~~ 4 wheel all-terrain vehicles (ATV's), and similar vehicles are classified as motorcycles.

Motorcycle sales service shall mean the display, sale and servicing, including repair work, of motorcycles.

Multifamily (residential) development or dwelling shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.~~*Multiple family dwelling* shall mean three or more attached dwelling units designed to be occupied by three or more households living independently of one another, exclusive of hotels or motels.~~

Municipal services and support facilities shall mean a multi-use complex or facility owned and operated by the City to facilitate the services essential to providing and maintaining municipal services. Uses within the complex or facility include, but are not limited to the following: housing and maintenance of City owned vehicles, trucks and other equipment, storage of materials (interior and exterior), workshops, fueling stations, and associated offices. Municipal services support facilities are allowed by conditional use in all zoning districts, and are required to observe screening and buffering requirements as described in ~~section~~ Sec. 130-32.

Nightclub shall mean an establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food and/or dancing may also be provided.

Nonconforming use shall mean a building, structure, or use of land lawfully occupied at the time of the effective date of the ordinance from which this chapter is derived or amendments thereto, but which does not conform to the use regulations of the district in which it is situated.

Nonpaid parking for nonresidential uses shall mean parking spaces that are appropriate and incidental to uses other than residential dwellings that are not contracted or leased for commercial gain. This term does not include paid commercial parking lots or garages.

Nonresidential district shall mean the A-O District and any district that does not permit single-family dwelling units as of right~~where the primary purpose is for uses other than residential and includes the C1, C2, C3, DT-S, DT-C, I and MU-2 zoning districts~~.

Nursery (greenhouse) shall mean an establishment, including a building, part of a building or open space, for the growth, display and/or sale of large plants, shrubs, and trees, and other materials used in indoor or outdoor planting.

Nursing home shall mean a residential establishment licensed under Chapter 242 of the Texas Health and Safety Code (or its successor statute), that furnishes food and shelter to persons unrelated to the proprietor of the establishment and provides minor treatment under the direction and supervision of a physician licensed by the Texas Medical Board, or other services that meet some need beyond the basic provision of food, shelter, and laundry.

Object shall mean a feature of a historic site that is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed.

Although it may be, by nature or design, movable, an object is associated with a specific setting or environment, such as statuary in a designed landscape.

Occupancy shall mean the use or intended use of the land or buildings by proprietors or tenants.

Office, professional and general administrative shall mean a room or group of rooms used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

Office-showroom/warehouse shall mean an establishment with a minimum of 75~~ percent~~% of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

Open space shall mean an open area or recreational facility which is designed and intended to be used for outdoor living and/or recreation. An area of common usable open space shall include landscaping, walks, recreational facilities, water features and decorative objects such as artwork or fountains. Usable open space shall not include: rooftops; accessory buildings, except those portions of any building designed specifically for recreational purposes; parking areas; driveways; turnaround areas; or the right-of-way or easement for streets or alleys. When used in ~~p~~Planned ~~d~~Development or similar development proposals, the term "open space" shall apply to both private and common ownership property designated for outdoor living and/or recreation.

Ordinary maintenance shall mean activities relating to a property that would be considered ordinary or common for maintaining the property, such as the replacement of a porch floor with identical or in-kind materials. It also may include other activities such as painting.

Parking lot shall mean an off-street, ground level area, surfaced and improved, for the temporary storage of motor vehicles

Patio home (zero lot line dwelling) shall mean a detached, single-family dwelling located on an individual lot with one wall coincident with a side lot line and a patio or side yard oriented toward the opposite side of the dwelling entirely enclosed by the dwelling wall, lot line wall of the neighboring dwelling, or other fences and walls. Adjoining lots shall not have common zero lot lines.

Pawnshop shall mean an establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker). Retail sales also take place of primarily used items.

Person shall mean any individual, association, firm, corporation, governmental agency, partnership or political subdivision.

Personal Care Home shall mean a residential establishment that provides food, shelter and personal care services to ~~three~~ 3 or less persons unrelated to the proprietor of the establishment.

Personal care services shall mean

(1) the assistance with feeing, dressing, moving, bathing, or other personal needs or maintenance,

(2) the administration of medication by a person licensed or otherwise authorized in this state to administer the medication or provides assistance with or supervision of the administration of medication, or

(3) general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence, regardless of whether a guardian has been appointed for the person.

Personal service shop or *custom personal services* shall mean establishments primarily engaged in providing services generally involving the care of the person or his or her apparel including but not limited to barbershops and beauty shops, dressmaking, shoe shining, dry-cleaning and laundry pick-up stations, tailor or seamstress, and salons/health clubs (no outside storage).

Place of worship shall mean a church, synagogue, temple, mosque, or other facility that is used on a regular basis for prayer by persons of similar belief.

Planned development district shall mean area of land controlled by landowner or landowners to be developed as a single entity for a number of dwelling units, and/or commercial and industrial uses, if any, the plan for which does not correspond in lot size, bulk or type of dwelling, or commercial or industrial use, density, lot coverage and required open space to the regulations established in other sections of this chapter.

Planning and Zoning Commission~~zoning commission~~ shall mean a board, comprised of citizens of Bryan, Texas, and appointed by the ~~c~~City ~~c~~Council as an advisory body, authorized to recommend changes in the zoning and other planning functions as delegated by the ~~c~~City ~~c~~Council.

Plat shall mean a map of a town, section, or subdivision showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys, etc., drawn to scale.

Police station shall mean a protection center operated by the City, serving as the headquarters for the City law enforcement officers and their support staff, including administrative offices, storage of equipment, temporary detention facilities, and open or enclosed parking of patrol vehicles; excluding, however, correctional institutions.

Police substation shall mean a protection center operated by the City, serving as a neighborhood center for the City law enforcement officers, including limited parking for patrol vehicles. Police sub-stations may also serve as the residence for a City law enforcement officer.

Portable building sales shall mean an establishment which displays and sells structures capable of being carried and transported to another location, but not including mobile homes.

Premises shall mean land together with any buildings or structures situated thereon.

Preservation shall mean the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

Primary use shall mean the principal or predominant use of any lot or building.

Printing shop shall mean an establishment which reproduces, in printed form, individual orders from a business, profession, service, industry or government organization.

Private utility, other than listed shall mean nonpublic utility requiring special facilities in residential areas or on public property such as heating, cooling, or communications not customarily provided by the municipality or public utilities

Professional office shall mean a single-family structure or multifamily structure used solely for the provision of executive, management, or legal services. Typical uses include engineering, architectural, and legal offices. Medical offices are excluded from this definition. No more than ~~three~~ 3 personnel per

dwelling unit are permitted to work in the office and the hours of operation are limited to 8:00 to 6:00 Monday through Friday and 10:00 to 5:00 Saturday and Sunday.

Railroad track and right-of-way shall mean the right-of-way and track used by a railroad, but not including railroad stations, sidings, team tracks, loading facilities, dockyards, or maintenance areas.

Reception hall shall mean any building, land area or other premises, or a portion thereof, which may be rented for social functions.

Recovery facility shall mean a treatment facility that provides residential programs that provide care and training or treatment for psychiatric, alcohol, or drug problems but where patients are not supervised by sworn officers.

Recreational center/community center shall mean a place designed and equipped for recreational, social, educational, cultural, and religious activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

Recreational vehicle (RV) park shall mean any site upon which ~~two~~ 2 or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles designed to be used by the general public as temporary living quarters for recreation or vacation purposes.

Recycling center shall mean a facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand within an enclosed building or area.

Recycling collection point shall mean an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items is permitted. Such a facility would generally be located in an easily accessed area and shall be reasonably free from noxious odors, rodents, insects, and refuse.

Rehabilitation shall mean the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

Replat shall mean the process of amending or vacating a recorded plat.

Reserve strip or parcel shall mean any lot, tract, parcel, strip or any other land which prohibits access from public or private tracts or parcels to land dedicated or intended to be dedicated to public use.

Residence. Same as a dwelling.

Residential district shall mean a district where the primary purpose is residential use and includes the RD-7, RD-5, R-NC, MF, DT-N, SC-R and MU-1 ~~zoning~~ Districts.

Restaurant shall mean a business establishment whose principal business is the selling of unpackaged food to the customer in a ready to consume state.

Restoration shall mean the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Retail or service, incidental, shall mean the rendering of incidental retailing or services incidental to the primary use. In the Office District, such uses include a barbershop or beauty shop, smoke shop, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy.

Retail stores and shops (retail services) shall mean an establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Right-of-way shall mean an area or strip of land dedicated as public property on which an irrevocable right of passage has been recorded for the use of vehicles or pedestrians or both.

Rodeo grounds shall mean a facility that accommodates the public competition or exhibition of skills such as riding broncos or roping calves.

Roominghouse. See "Boardinghouse."

Saddlery shall mean an establishment engaged in the making and selling of tack for livestock, including but not limited to saddles and harnesses. Tanning of leather goods is prohibited within a saddlery.

Salvage or reclamation of products (also see "Wrecking yard") shall mean the reclamation and storage of used products or materials.

Satellite dish antenna.

(1) *Satellite television reception dish* shall mean a round, parabolic apparatus capable of receiving communications from a transmitter relay located in planetary orbit.

(2) *Usable satellite signals* shall mean satellite signals, from the major communication satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations or by way of cable television.

School, private, shall mean a school under the sponsorship of a private agency or corporation other than a public or religious agency, having a curriculum generally equivalent to public elementary or secondary schools; except all private schools where education is primarily conducted in private homes.

School, public or parochial, shall mean a school under the sponsorship of a public or religious agency providing elementary or secondary curriculum, but not including private trade or commercial schools.

Screening shall mean a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Sexually oriented uses. See *"Adult entertainment."*

Sight distance triangle shall mean a triangular-shaped portion of land established at street intersections in which no visual obstructions are erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the line of visibility of motorists entering or leaving the intersection, as defined by the American Association of State Highway and Transportation Officials.

Single-family dwelling unit shall mean a dwelling unit designed for and occupied by one family and that is surrounded by open space. ~~a dwelling unit that shall have no more than four unrelated individuals residing therein.~~ A single-family dwelling unit may have a second family comprised entirely of individuals related by blood, marriage or adoption, residing therein on a temporary basis for a period not exceeding ~~six~~ 6 months in any calendar year.

Site shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.~~mean land upon which commercial, industrial, residential, or other business activity is to be done.~~

Stable--Commercial shall mean a stable used for the rental of stall space or for the sale or rental of horses or mules.

Stable--Private shall mean an area used solely for the owner's private purposes for the sale or keeping of horses, mules or ponies, and not kept for remuneration, hire or sale.

Storage or wholesale warehouse shall mean a building used primarily for the storage of goods and materials.

Storage, Limited Outdoor shall mean storage that is accessory to the principal land use on a site. Storage activities include storage of packaged merchandise or material in boxes, in crates, on pallets or other kinds of shipping packaging and other similar merchandise, material or equipment. Disorganized or loose materials or objects, or materials stored in bulk shall not be allowed in limited outdoor storage.

Storage, General Outdoor shall mean storage of unpackaged or bulk materials, including but not limited to landscape, building and aggregate materials.

Storage, Industrial Outdoor shall mean outdoor storage allowed for all uses allowed within the Industrial District zoning designation.

Story shall mean that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. The average height for a story shall be defined as 12 feet.

Story, half, shall mean a space under a sloping roof which has the line of intersection of roof decking and wall face not more than ~~three~~ 3 feet above the top floor level, and in which space not more than ~~two-thirds~~66% of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

Streets:

(1) *Arterial.* This class of streets brings traffic to or from the expressway and serves those major movements of traffic within or through the urban area that are not served by expressways. Arterials interconnect the principal traffic generators within the City as well as important rural routes. Arterials handle trips between different areas of the City and should form a reasonably integrated system. The length of the typical trip on the system should exceed one mile. The primary function of an arterial is to provide movement between principal traffic generators.

(2) *Collector.* This class of streets serves internal traffic movements within an area of the City, such as a subdivision, and connects this area with the arterial system. Collectors do not handle long through trips and are not, of necessity, continuous for any great length. In gridiron street patterns, however, a street of several miles in length may serve as a collector rather than an arterial if the predominant use is to reach the next junction with an arterial and there turn off.

(3) *Cul-de-sac.* A street having but one outlet to another street and terminated on the opposite end by a vehicular turnaround.

(4) *Dead end.* A street other than a cul-de-sac, with only one outlet.

(5) *Local.* The sole function of local streets is to provide access to adjacent land and act as a connection to the collector system.

Studio shall mean the workshop of an artist, sculptor, photographer, or craftsperson.

Structural alterations shall mean any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

Structure shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.~~mean any manmade construction either built or moved onto a site, affixed to the ground, and which is used to shelter, enclose, or support persons or moveable property. Driveways, patio slabs, walkways, and nonscreening fences shall not be considered as structures.~~

Subdivision shall mean any division of property for which a plat is required to be approved and recorded under the provisions of V.T.C.A., Local Government Code ch. 211; the Texas Municipal Annexation Act (V.T.C.A., Local Government Code ch. 43); and under this chapter. The term "subdivision" shall mean the division of a lot, tract, or parcel of land situated within the corporate limits of the City, or within the City's extraterritorial jurisdiction into ~~two~~ 2 or more parts, lots, plats, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or laying out any subdivision of any tract of land or any addition of the City, or for laying out suburban lots or building lots or any lots and streets, alleys, or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereupon or adjacent thereto. The term "subdivision" shall include replatting, resubdivision and, when in the context shall relate to the process of subdividing of the land or area. The term "resubdivision" shall mean the division of an existing subdivision, together with any change of lot size therein, or with the relocation of any street lines; however, it does not include the division of land for agricultural purposes in parcels or tracts of ~~five~~ 5 acres or more and not involving any new street, alley or easement of access. A major subdivision is a subdivision consisting of more than one phase of development.

Surveyor shall mean a licensed state land surveyor or a registered professional land surveyor, as authorized by the Professional Land Surveying Practices Act (V.T.C.A., Occupations Code ch. 1071).

Tattoo/body piercing studio shall mean the workshop of a tattoo artist, and/or a facility where the piercing of body parts, other than ears, is performed for purposes of allowing the insertion of jewelry.

Theater--Indoor shall mean a building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performances.

Theater--Outdoor (amphitheater) shall mean an outdoor area and associated structures devoted to the showing of motion pictures, or for dramatic, musical or live performances.

Townhouse shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.~~mean type of dwelling unit connected to a similar structure by a common wall, and commonly (particularly in a planned unit development) sharing and owning in common the surrounding grounds.~~

Trade and commercial schools shall mean establishments, other than public or parochial schools, private primary or secondary schools, or colleges, offering training or instruction in a trade, art or occupation.

Trailer rental shall mean the display and offering for rent of trailers designed to be towed by light load vehicles.

Truck and bus repair shall mean an establishment providing major and minor automobile repair services to heavy load vehicles.

Truck parking lot shall mean area for parking heavy load vehicles.

Truck sales (heavy trucks) shall mean the display, sale or rental of new or used heavy load vehicles in operable condition.

Truck stop shall mean any building, land, area, or premises, or portion thereof used for the retail dispensing or sales of fuels, lubricants and accessories commonly utilized by heavy load vehicles, but not including those uses listed under major automobile repair, as applying to heavy load vehicles.

Utility distribution/transmission lines shall mean facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to electrical transmission lines, gas transmission lines and metering stations.

Variance shall mean an adjustment in the application of the specific regulations of the ~~z~~Zoning O~~o~~rdinance to a particular parcel of property which, because of special conditions or circumstances of

hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the Zoning ~~b~~Board of ~~a~~Adjustment of the City can grant a variance.

Veterinary services shall mean an establishment, with or without outside pens or runs, where animals and pets are admitted for examination and medical treatment.

Vicinity map shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.~~mean a map showing the site in relationship to the city, not necessarily to scale.~~

Warehouse shall mean a building used primarily for the storage of goods and materials.

Wholesale operation shall mean a place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wrecking yard shall mean the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot of ~~two~~ 2 or more motor vehicles of any kind which are incapable of being operated due to condition or lack of license have been placed for the purpose of obtaining parts for recycling or resale.

Zero lot line dwelling. Same as "patio home."

Zoning district map shall mean the official map, labeled Exhibit "A", upon which the boundaries of the various zoning districts are drawn and which is an integral part of the ~~z~~Zoning ~~o~~Ordinance.

Zoning official shall mean the official or other designated authority charged with the administration and enforcement of the ~~z~~Zoning ~~o~~Ordinance.

Sec. 130-4 Zoning district map.

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

(a) One original of the zoning district map shall be filed in the office of the ~~c~~City S~~s~~ecretary and labeled as Exhibit "A." This copy shall be the official zoning district map and shall bear the signature of the mayor and attestation of the C~~c~~ity S~~s~~ecretary. This copy shall not be changed in any manner. In case of any question, this copy, together with any amending ordinances, shall be controlling.

(b) The current zoning district map shall be placed in the office of the C~~c~~ity P~~p~~lanner. The copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments and shall be identified as the official zoning map. Reproductions for informational purposes may be made of the official zoning district map.

Sec. 130-5 Zoning district boundaries.

The zoning district boundary lines shown on the zoning district map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerline.

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

(c) Boundaries indicated as approximately following City limits shall be construed as following City limits.

(d) Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.

(e) Boundaries indicated as following lake shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of all bodies of water shall be construed to follow such centerline and, in the event of change in the centerline, shall be construed to move with such centerline.

(f) Boundaries indicated as parallel to or extensions of features indicated in Sec. 130-5(a) through Sec. 130-5(e)~~subsections (1) through (5) of this section~~ shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.

(g) Whenever any street, alley, or other public way is vacated by official action of the ~~c~~City ~~c~~Council or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

(h) The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street unless as a condition of zoning approval it is stated that the zoning classification shall not apply to the street.

(i) Where physical features on the ground are at variance with information shown on the official zoning district map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of Sec. 130-5(a) through Sec. 130-5(h)~~subsections (1) through (8) of this section~~, the property shall be considered as classified A-O, Agricultural-Open District, in the same manner as provided for newly annexed territory.

(j) Permanent zoning changes made after the date of passage of the ordinance from which this chapter is derived are indicated in approximate locations on the zoning district map. For exact legal descriptions, refer to the adopting ordinance amendment for each particular permanent zoning change.

Sec. 130-6 Compliance required.

All land, buildings, structures, or appurtenances located thereon within the City, which are hereafter occupied, used, erected, altered, removed, placed, demolished, or converted shall be occupied, used, erected, altered, removed, placed, demolished, or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided or be subject to penalties as stated in ~~section 130-42~~Sec. 130-45.

Sec. 130-7 Zoning upon annexation.

Any territory hereafter annexed to the City and brought within its corporate limits shall be assigned a zoning classification upon annexation appropriate to its existing use in accordance with the procedures required by state law and this chapter, or shall be governed by the following regulations pending establishment of permanent zoning on such territory. In the event that these temporary regulations become applicable and no requests for permanent zoning classification have been made by the property owners within one year of the date of annexation, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall initiate a request for permanent classification, using the procedures established in this chapter. The following regulations are applicable to all property not assigned a permanent zoning classification at the time of annexation:

(a) No person shall erect, construct, proceed, or continue with the erection or construction of any building or structure, or cause the same to be done in any newly annexed territory to the City

without first applying for and obtaining a building permit or certificate of occupancy from the ~~c~~Chief ~~b~~Building ~~o~~Official.

(b) No permit for the construction of a building or use of land shall be issued by the ~~c~~Chief ~~b~~Building ~~o~~Official other than a permit which will allow the construction of a building or use permitted in the A-O, Agricultural-Open District, unless and until such territory has been classified in a zoning district other than the A-O District by the ~~c~~City ~~c~~Council in the manner prescribed by this chapter.

Article II. "Zoning Districts"

Sec. 130-8 Zoning districts established.

(a) The City is hereby divided into the following zoning districts. The use, height, and area regulations as set out herein apply to each district. The districts established herein shall be known as:

Abbreviated Designation	Zoning District Name
A-O	Agricultural-Open District
RD-7~~000~~	Residential District - 7~~000~~
RD-5~~000~~	Residential District - 5~~000~~
MF	Multiple-Family District
DT-N	Downtown - North District
DT-S	Downtown - South District
DT-C	Downtown - Civic District
SC-B	South College - Business District
SC-R	South College - Residential District
C-1	Office District
C-2	Retail District
C-3	Commercial District
I	Industrial District

Abbreviated Designation	Special Purpose District Name
HP	Historic Preservation Overlay District
PD	Planned Development District
CO	Corridor Overlay District
MU-1	Mixed Use - Residential District~~ - 1~~
MU-2	Mixed Use District~~ - 2 (General)~~
R-NC	Residential - Neighborhood Conservation District

(b) Definitions and terms.
Certain words and terms used throughout this chapter are defined in ~~section~~ Sec. 130-3.

Sec. 130-9 A-O, Agricultural-Open District.

(a) General purpose and description.

This district is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used primarily for agricultural purposes, but may become an urban area in the future. Generally, the A-O, Agricultural-Open District, will be near development, therefore the agricultural activities conducted in the A-O~~, Agricultural-Open~~ District, should not be detrimental to urban land uses. The types of uses, area, and intensity of uses permitted in this district encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made. The A-O~~, Agricultural-Open~~ District is also intended to protect areas that may be unsuitable for development because of physical problems, lack of infrastructure, space constraints, or potential health or safety hazards such as flooding, as well as providing for preservation of natural open space areas.

(b) Permitted uses.

- Accessory structures (~~refer to section~~See Sec. 130-34(a));
- Accessory dwelling unit (~~refer to section~~See Sec. 130-34(b));
- Cemetery;
- City of Bryan Fire Department Training Tower;
- City of Bryan Police Department Firing Range;
- Country club (private);
- Essential municipal uses;
- Farm, gardening, ranch, and agricultural operations, including field crops, orchards, horticulture, animal husbandry, but not including feed lots and poultry farms;
- Golf course;
- Government (federal or state) owned structures, facilities, and uses;
- Group homes;
- Home occupations;
- Kennel, commercial;
- Landscape service (with general outdoor storage);
- Nursery (greenhouse);
- Personal Care Homes;
- Place of worship;
- Private utilities (no general outdoor storage yards);
- Real estate sales offices during the development of residential subdivisions, but not to exceed ~~three~~ 3 years;
- Recreational areas (operated by public, charitable or religious organizations)/community center;
- Sanitary landfill;
- Schools;
- Servant's quarters and quarters used by bona fide farm workers, or other accessory buildings such as barns, sheds, and other structures necessary for farming operations may be permitted, provided however, that no such accessory building or quarters to be used by servants or farm workers shall be occupied as a place of abode or dwelling by anyone other than a bona fide servant or farm worker actually regularly employed on the premises by the landowner or occupant of the main building;
- Single-family detached dwellings
- Stables--Commercial (subject to the rules and regulations of the state health department);
- Stables--Private (subject to the rules and regulations of the state health department);

- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Veterinary services with outdoor pens and runs.

(c) Conditional uses.

- Airport (public or private);
- Bed and breakfast;
- Charitable uses college or university;
- Commercial amusement (outdoor);
- Commercial landfill;
- Farm equipment sales and service;
- Feed store;
- Flea market;
- Fraternal and service organizations;
- Fraternity and sorority houses;
- Heliport or helistop;
- Hospital;
- Manufactured housing land lease community, ~~three~~ 3 acres minimum park size;
- Manufactured homes on individual lots of one acre or more;
- Municipal services support facilities;
- General outdoor storage;
- Outdoor theater or amphitheater;
- Police station;
- Private utility company with general outdoor storage;
- Produce stand (seasonal);
- Racing track, public arena, or stadium;
- Recycling centers;
- Rodeo grounds;
- Recreational vehicle (RV) park;
- Soil, crushed rock, and gravel, general outdoor storage or sales.

(d) Lot area, height, and setback requirements.

~~Refer to~~See building setbacks and lot standards~~, article IV, chapter 62~~ in Article IV of Chapter 62.

(e) Parking regulations.

~~Refer to~~See access and off-street parking~~, article VI, chapter 62.~~ in Article VI of Chapter 62.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

~~(2)~~ Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, ~~article III of chapter 62~~in Article III of Chapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(3) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~ Sec. 130-35.

(4) Outdoor storage and display is prohibited, except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in ~~Section~~ Sec. 130-34(m).

Sec. 130-10 RD-7, Residential District - 7000.

(a) General purpose and description.

The Residential District - 7000, is intended to be composed of detached dwelling units on lots of not less than ~~seven thousand (~~7,000~~)~~ square feet. Detached dwelling units are designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses. Other uses may be permitted in this district which are compatible to residential uses and occupy structures designed for their intended use and do not infringe upon the residential uses.

(b) Permitted uses.

- Accessory structures (~~refer to section~~ See Sec. Sec. 130-34(a));
- Detached dwelling units with no more than ~~four~~ 4 unrelated persons;
- Essential municipal uses;
- Group home/community home;
- Government (federal or state) owned structures, facilities, and uses;
- Home occupations;
- Personal Care Homes;
- Place of worship;
- Private utilities (no general outdoor storage yards);
- Real estate sales offices during the development of residential subdivisions, but not to exceed ~~three~~ 3 years;
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;

(c) Conditional uses.

- Accessory dwelling unit (~~refer to section~~ See Sec. 130-34(b));
- Accessory structure if greater than the standards set forth in ~~section~~ Sec. Sec. 130-34(a);
- Bed and breakfast;
- Boarding (lodging) house;
- Child care--Class B;
- Country club or golf course;
- Duplex;
- Funeral home/mortuary;
- Neighborhood services;
- Nursing home (retirement home);
- Patio home (zero lot line dwelling);
- Police station;
- Professional offices (In the Eastside Historic District, the building must also be used as a primary dwelling by the owner, managing partner or majority shareholder of the business occupying the building);
- Community center/recreation center;
- Townhouses;

(d) Lot area, height, and setback requirements.
~~Refer to~~See building setbacks and lot standards~~, article IV, chapter 62, Bryan City Code~~ in Article IV of Chapter 62.

(e) Parking regulations.
~~Refer to~~See access and off-street parking~~, article VI of chapter 62, Bryan City Code.~~ in Article VI of Chapter 62.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(2) Outdoor storage is prohibited (except for materials for the resident's personal use or consumption, i.e. firewood, gardening materials, etc.)

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of the nonresidential and multifamily development~~, article III of chapter 62~~ in Article III of Chapter 62~~, Bryan City Code~~, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) ~~Duplex, p~~Patio home, ~~and~~ townhouse and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169~~shall conform to standards as specified in section 130-34 Sec. 130-34(g), Sec. 130-34(h) and 130-34(i)~~, respectively.

(5) Professional offices, permitted conditionally in this district shall have one driveway. The minimum dimensions shall be 37 feet long by 18 feet wide so as to accommodate ~~four~~4 vehicles on the site.

(6) Professional offices, conditionally permitted in this district shall have a minimum of ~~eight~~ 8 ~~percent~~ % of the site landscaped.

Sec. 130-11 RD-5, Residential District - 5000.

(a) General purpose and description.
The Residential District - 5000, is intended to provide for development of detached dwelling units on lots of not less than ~~five thousand (~~5,000~~)~~ square feet. Other uses, such as religious and educational facilities, and open spaces are provided to maintain a balanced, orderly, convenient, and attractive residential area. Certain uses, such as duplexes, may be permitted if used in a compatible manner with areas.

(b) Permitted uses.
Any use permitted in RD-7 District.

(c) Conditional uses.
Any conditional use allowed in the RD-7 District with the addition of:

- Halfway house.

(d) Lot area, height, and setback requirements.
~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62, Bryan City Code~~.

(e) Parking regulations.
~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI of chapter 62, Bryan City Code~~.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(2) Outdoor storage is prohibited (except for materials for the resident's personal use or consumption, i.e. firewood, gardening materials, etc.)

(3) Patio homes shall be permitted only on lots specified for such a use in an approved plat (see ~~section~~Sec. ~~130-34~~62-167 for criteria). ~~Duplex and townhouse~~ Townhouse and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-168 and Sec. 62-169~~shall conform to standards as specified in section 130-34(h) and 130-34(i)130-34~~, respectively.

(4) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62, Bryan City Code,~~ before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

Sec. 130-12. MF, Multiple-Family Residential District.

(a) General purpose and description.
The MF, Multiple-Family Residential District, is a residential district intended to provide the highest residential density of a maximum of 25 dwelling units per acre. The principal permitted land uses will include low-rise ~~multiple-family~~ multifamily dwellings, garden apartments, condominiums, duplexes, and townhouses. Recreational, religious, health and educational uses normally located to service residential areas are also permitted in this district. This district should be located adjacent to an arterial or collector, as shown on the Major Thoroughfare Plan, and serve as a buffer between retail/commercial development or heavy automobile traffic, and medium or low density residential development.

(b) Permitted uses.
Any use permitted in the RD-5 District with the addition of:

- Boardinghouse (lodging house);
- Child care--Class B
- Common Open Space, Community Center, Recreational Building, and other facilities or amenities, provided they are intended for use by the residents of the multifamily ~~apartment complex~~development;

- Duplex;
- Essential municipal uses;
- Laundromats (self-service washateria);
- Multifamily ~~Multiple-family~~ dwelling (apartment building, triplex, four-plex), greater than ~~two~~ 2 dwelling units per structure;
- Nursing home (retirement home);
- Personal Care Homes;
- Townhouses.

(c) Conditional uses.

Any conditional use allowed in the RD-5 District with the addition of:

- Dormitory;
- Fitness center;
- Fraternity and sorority houses;
- Funeral home/mortuary;
- Manufactured housing land lease communities;
- Municipal services support facilities;
- Nonpaid parking for nonresidential uses;
- Police station.

(d) Height regulations.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Lot area and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(f) Parking regulations.

~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI, chapter 62~~.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(h) Special district requirements.

(1) Single-family units constructed in this district shall conform to RD-5 ~~d~~District standards.

(2) No temporary structures, such as travel trailers, recreational vehicles, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(3) Outdoor storage is prohibited.

(4) A paved walkway shall connect the front door of each ~~multifamily~~ ground floor unit in a multifamily development to a parking area.

(5) ~~Refer to section 130-34~~See Sec. 62-167, Sec. 62-168 and Sec. 62-169 ~~130-34(g), Sec. 130-34(h) and 130-34(i)~~ for patio home, townhouse, and duplex development criteria.

(6) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter~~

~~62,~~ before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

Sec. 130-13 C-1, Office District.

(a) General purpose and description.

The C-1, Office District is established to create a flexible district for low intensity office and professional uses generally in smaller buildings. Some light intensity retail uses are also permitted. Permitted uses should be compatible with adjacent residential areas by limiting heights to ~~two~~ 2 stories and utilizing buffers and landscape materials. Adaptive reuse of existing structures is encouraged. Sites zoned office may be built over ~~two~~ 2 stories, subject to certain restrictions, if located such that they will not adversely impact any properties zoned or used for a single-family use. Buildings and structures in this district should strive for architectural compatibility.

(b) Permitted uses.

- Accessory or incidental uses to the main use (snack or food bars, automatic teller machines, etc.);
- Accessory structure (~~refer to section~~See Sec. 130-34(a));
- Assisted Living Facilities;
- Banks, savings and loans or credit union offices;
- Charitable uses
- Child care--Class B;
- Child care--Class C;
- Essential municipal uses;
- Recreational/community center;
- Fraternal/service organization;
- General office use (professional, administrative);
- Government (federal or state) owned structures, facilities, or uses;
- Hospital;
- Kiosk;
- Laboratory (scientific, research, medical, optical);
- Medical facilities or clinics;
- Museum/art gallery;
- Personal service shop or custom personal services;
- Pharmacies;
- Photography studio;
- Place of worship;
- Police station;
- Private utility office (no repair or outdoor storage);
- Radio or television broadcasting studio (without tower);
- Nursing home (retirement home);
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Veterinary services (no outdoor pens or runs).

(c) Conditional uses.

- College or university;
- Duplex;

- Fitness center;
- Funeral home/mortuary;
- Heliport or helistop;
- Micro-assembly;
- Multifamily dwelling;
- Municipal services support facilities;
- Oil and gas well operations;
- Patio home (zero lot line dwelling);
- Personal Care Homes;
- Restaurant or cafeteria;
- Reception hall;
- Single-family detached dwelling;
- Studios;
- Theater--Indoor;
- Townhouse.

(d) Height regulations.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Lot area and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(f) Parking regulations.

~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI, chapter 62~~.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Outdoor storage and display is prohibited, except as may be provided for in ~~Section~~Sec. 130-34(m).

(3) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(4) Single-family detached dwellings permitted in this district shall conform to standards as specified in the RD-5 ~~d~~District.

(5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62,~~ before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(7) ~~Duplex,~~ Patio home, townhouse, and ~~patio home~~ duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169~~shall conform to standards as specified in section 130-34(g), Sec. 130-34(h) and 130-34(i)130-34~~, respectively.

(8) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

Sec. 130-14 C-2, Retail District.

(a) General purpose and description.

The C-2, Retail District is established to provide locations for various types of general retail trade, business and service uses. The district allows shopping areas or uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods. These shopping areas should utilize established landscape and buffering requirements and generally be limited to ~~two~~ 2 stories in height. The ~~Retail~~ C-2 District should be located along or at the intersection of major collectors or arterials to accommodate higher traffic volumes. Under certain conditions, high-rise offices may be permitted if proper buffering and transition treatment is provided from residential districts.

(b) *Permitted uses.*

Any permitted use in the C-1 ~~Office~~ District with the addition of:

- Automobile service station;
- Bed and breakfast;
- Boardinghouse (lodging house);
- Business or trade school;
- Commercial amusement (indoor);
- Dance studio;
- Fitness center;
- Funeral home/mortuary;
- Gaming establishments;
- Indoor archery and shooting range;
- Laundromats (self-service washateria);
- Micro-assembly;
- Motel or hotel;
- Nursery (greenhouse);
- Package liquor store;
- Parking lots or garages, commercial;
- Pawnshop that has been licensed to transact business by the state consumer credit commissioner under V.T.C.A., Finance Code ch. 371;
- Reception hall;
- Retail services (including incidental uses);
- Restaurant;
- Studio;
- Tattoo/piercing studio (see Sec. 130-34(n));
- Theater--Indoor.

(c) Conditional uses.

Any conditional use allowed in the ~~Office~~ C-1 District with the addition of:

- Automobile repair/sales/rental;
- Boat repair/sales/rental;
- Commercial amusement (outdoor);
- Credit access business (see Sec. 130-34(o));

- Heating or air conditioning sales or service;
- Heliport or helistop;
- Ice company sales--Wholesale;
- Mini-warehouse or self-storage;
- Motorcycle sales/rental/service;
- Moving company;
- Night club or tavern(<= 5,000 square feet);
- Office--Showroom/warehouse;
- Theater--Outdoor;
- Printing company;
- Recycling collection point;
- Trailer rental;
- Truck rental.

(d) Height regulations.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Lot area and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(f) Parking regulations.

~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI, chapter 62~~.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Outdoor storage and display is prohibited, except as may be provided for in ~~Section~~Sec. 130-34(m).

(3) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(4) Single-family detached dwelling permitted in this district shall conform to standards as specified in the RD-5 ~~d~~District. ~~Duplex~~Patio home, townhouse, and ~~patio home~~ duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169~~shall conform to standards as specified in section~~ , respectively~~130-34~~.

(5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62,~~ before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(7) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Noise above the average intensity of street traffic is discernible beyond the property line.

d. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(8) Wireless telecommunications facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

Sec. 130-15 C-3, Commercial District.

(a) General purpose and description.

The C-3, Commercial District is intended predominantly for heavy retail and commercial uses of a service nature which typically have operating characteristics or traffic service requirements generally compatible with typical retail or shopping, but generally not with residential environments. Operating characteristics which may be typical of uses permitted in the ~~Commercial~~ C-3 District include service oriented, may sell used goods, require warehouse storage and delivery areas, and have a greater service radius than retail stores.

(b) Permitted uses.

Any permitted use allowed in the ~~Retail~~ C-2 District with the addition of:

- Amusement arcade (video arcade);
- Automobile repair;
- Automobile sales/rental/service;
- Boat sales/rental/service;
- Bus terminal/station;
- Commercial amusement, (indoor);
- Commercial amusement, (outdoor);
- Commercial bakery;
- Farm equipment sales and service;
- Feed store;
- Fraternity/sorority house;
- Gaming establishments;
- Ice company (sales);
- Ice company (wholesale);
- Indoor archery and shooting range;
- Landscape service;
- Laundries, commercial;
- Lumberyard;
- Manufactured home display and sales;
- Micro-assembly;
- Mini-warehouse/self-storage;
- Motorcycle sales/rental/service;
- Nightclub or tavern;
- Office--Showroom/warehouse;

- Theater--Outdoor (amphitheater);
- Overnight delivery company;
- Paper/chemical suppliers;
- Parking lots (nonpaid for nonresidential use);
- Plumbing service;
- Portable/small commercial structures--Permanent;
- Portable/small commercial structures--Seasonal;
- Printing company;
- Private utility company (with general outdoor storage);
- Recycling collection point;
- Recreational vehicle (RV) park;
- Tool and machinery rental;
- Truck repair/truck stop;
- Veterinary services (no outdoor runs or pens).

(c) Conditional uses.

Any conditional use allowed in the ~~Retail~~ C-2 District with the exception of credit access business, and the addition of:

- Cabinet shop;
- Cemetery;
- College or university;
- Flea market;
- Golf course or country club;
- Heliport or helistop;
- Manufacturing;
- Machine shop;
- Moving company;
- Multifamily dwelling;
- Recovery facility;
- Refuse systems;
- Rodeo grounds;
- Stable--Commercial.

(d) Height regulations.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Lot area and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(f) Parking regulations.

~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI, chapter 62~~.

(g) Other regulations.

(1) As established in all other applicable sections and/or ordinances.

(2) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(3) Single-family detached dwelling permitted in this district shall conform to standards as specified in the RD-5 ~~d~~District. ~~Duplex~~Patio home, townhouse, and ~~patio home~~ duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169~~shall conform to standards as specified in section~~ , respectively~~130-34~~.

(4) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62,~~ before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(5) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(6) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Noise above the average intensity of street traffic is discernible beyond the property line.

d. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(7) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(8) The following regulations pertain to portable/small commercial structures-permanent which are permitted in this district.

a. ~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

b. All fire code requirements must be met.

c. A written agreement with the property owner for trash pickup must be provided.

d. All parking requirements must be met.

e. No portable/small commercial structures shall be allowed in parking lots that do not meet current construction standards or do not presently have an excess of parking for the existing structures utilizing the lot.

f. The Site Development Review Committee must approve vehicle circulation.

g. The structure must be properly anchored, either to the surface of the lot or it must be on a permanent foundation.

h. Landscaping must front a minimum of ~~ten~~ 10%~~percent~~ of the building's facade. Acceptable landscaping of portable/small commercial structures includes the following: raised planter boxes and at grade planting beds.

i. Restroom facilities for the employer and employees must be provided either inside the structure or via an agreement with the owner of the main structure on the site.

(9) The following regulations pertain to portable/small commercial structures-seasonal which are permitted in this district. Certificate of occupancies for portable/small commercial structures-seasonal shall be granted for a maximum of 60 days, after which time the structure must be removed from the site. An additional certificate of occupancy shall not be granted for the same business for a minimum of ~~six~~ 6 months.

(10) Outdoor storage and display is prohibited, except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc, or as may be provided for in ~~Section~~Sec. 130-34(m).

Sec. 130-16 DT, Downtown Districts.

The Downtown ~~Zoning~~ Districts are established to accommodate existing development and to promote future development in the central area of the City, and to protect the character of the downtown area. They recognize the unique characteristics of each section of downtown and its space limitations. The Downtown Bryan Master Plan, adopted in October 2001, recommends that the Downtown ~~Zoning~~ District be extended from its current boundaries to create a cohesive urban fabric.

Sec. 130-17 DT-N, Downtown - North District.

(a) General purpose and description.

The DT-N, Downtown - North District is established to accommodate existing developments and to promote new development in an area which provides for various types of residential uses as well as general retail, office, business and service uses. The district encourages high density residential development and retail uses to support a residential community.

(b) Permitted uses.

- Apartment building;
- Assisted Living Facilities;
- Banks, savings and loans or credit unions;
- Child care--Class B;
- Child care--Class C;
- Condominiums;
- Dance studio;
- Department store (discount/variety);
- Essential municipal uses;
- Fitness center;
- General office use (professional, administrative, etc.);
- Government (federal or state) owned structures, facilities, and uses;
- Kiosk;
- Laundromats (self-service washateria);
- Loft apartments;
- Motel/hotel;
- Museum/art gallery;
- Neighborhood services (as defined in ~~section~~Sec. 130-34(j));
- Nightclub or tavern (5,000 square feet or less);

- Nursing home (retirement home);
- Package liquor store;
- Parking lot or garage, commercial or nonpaid for nonresidential use;
- Personal service shop or custom personal services;
- Pharmacies;
- Photography studio;
- Place of worship;
- Radio or television broadcasting studio (without tower);
- Restaurant, cafeteria;
- Retail--General;
- Schools;
- Studio;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Townhouses;
- Veterinary services (no outside runs or pens).

(c) Conditional uses.

- Municipal services support facilities;
- Nightclub or tavern (greater than 5,000 square feet);
- Police station;
- Theater (indoor).

(d) Lot area, height, and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Parking regulations.

~~Refer to~~See access and off-street parking ~~ordinance~~regulations in Article VI of Chapter 62~~, article VI, chapter 62~~.

(f) Architectural regulations.

Building permits within the DT-N~~, Downtown North Zoning~~ District will not be issued prior to the review and approval of the C~~c~~ity P~~p~~lanner or his or her designee to assure that new construction and/or additions to existing structures are in keeping with the significant architectural, historic, or cultural elements of the district. Regulations affecting the exterior of the building will be in accordance with the City's Design Guidelines for the Downtown Historic District and Other Local Commercial Historic Resources, and the Downtown Bryan Master Plan.

(g) Other regulations.

(1) Outdoor storage and display is prohibited, except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in ~~Section~~Sec. 130-34(m).

(2) Establishments selling alcoholic beverages within the DT-N~~, Downtown North Zoning~~ District shall be exempt from any regulations regarding their proximity to a public school, church, or a public hospital.

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of C~~c~~hapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Temporary structures including, but not limited to recreational vehicles, travel trailers, manufactured homes, or mobile homes will not be permitted in the DT-N~~, Downtown North Zoning~~ District.

(5) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(6) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(7) Special use licenses within the DT-N~~, Downtown North~~ District shall be allowed only as provided for in ~~section~~Sec. ~~62-243~~62-251.

Sec. 130-18 DT-S, Downtown - South District.

(a) General purpose and description.

The DT-S, Downtown - South District is established to accommodate existing developments and to promote new development in an area which traditionally provided for various types of general retail, office, business and service uses while encouraging secondary residential uses on the upper floors of buildings.

(b) Permitted uses.

- Assisted Living Facilities;
- Banks, savings and loans or credit unions;
- Child care--Class B;
- Child care--Class C;
- Commercial amusement (indoor);
- Condominiums;
- Dance studio;
- Department store (discount/variety);
- Essential municipal uses;
- Fitness center;
- General office use (professional, administrative, etc.);
- Government (federal or state) owned structures, facilities, and uses;
- Hospital;
- Kiosk;
- Laundromats (self-service washateria);
- Loft apartments;
- Medical clinics;
- Motel/hotel;
- Museum/art gallery;
- Nightclub or tavern (5,000 square feet. or less);
- Outdoor theater (amphitheater);

- Package liquor store;
- Personal service shop or custom personal services;
- Photography studio;
- Place of worship;
- Radio or television broadcasting studio (without tower);
- Restaurant, cafeteria;
- Retail--General;
- Schools;
- Studio;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Theater (indoor);
- Veterinary services (no outside runs or pens).

(c) Conditional uses.

- College or university;
- Municipal services support facilities;
- Nightclub or tavern (greater than 5,000 square feet);
- Police station;
- Roof-top heliport or helistop;
- Tattoo studio (see Sec. 130-34(n)).

(d) Lot area, height, and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Parking regulations.

~~Refer to~~See access and off-street parking ~~ordinance~~regulations in Article VI of Chapter 62~~, article VI, chapter 62~~.

(f) Architectural regulations.

Building permits within the DT-S~~, Downtown South Zoning~~ District~~s~~ will not be issued prior to the review and approval of the C~~c~~ity P~~p~~lanner or his or her designee to assure that new construction and/or additions to existing structures are in keeping with the significant architectural, historic, or cultural elements of the district. Regulations affecting the exterior of the building will be in accordance with the City's Design Guidelines for the Downtown Historic District and Other Local Commercial Historic Resources, and the Downtown Bryan Master Plan.

(g) Other regulations.

(1) Establishments selling alcoholic beverages within the DT-S~~, Downtown South Zoning~~ District shall be exempt from any regulations regarding their proximity to a public school, church, or a public hospital.

(2) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of C~~c~~hapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(3) Temporary structures including, but not limited to recreational vehicles, travel trailers, manufactured homes, or mobile homes will not be permitted in the DT-S~~, Downtown South Zoning~~ District.

(4) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(5) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(6) Special use licenses within the DT-S~~, Downtown South~~ District shall be allowed only as provided for in ~~section~~Sec. ~~62-243~~62-251.

(7) Outdoor storage and display is prohibited, except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in ~~Section~~Sec. 130-34(m).

Sec. 130-19 DT-C, Downtown - Civic District.

(a) General purpose and description.

The DT-C, Downtown - Civic District is established to accommodate existing developments and to promote new development in an area which provides for various types of civic uses as well as general retail, office, business and service uses.

(b) Permitted uses.

- Assisted Living Facility;
- Banks, savings and loans or credit unions;
- Bus terminal/station;
- Business or trade school;
- Charitable uses;
- Child care--Class B;
- Child care--Class C;
- Community/recreational center;
- Courthouse (municipal, state or federal);
- Essential municipal uses;
- Fitness center;
- Fraternal/service organizations;
- General office use (professional, administrative, etc.);
- Government (federal or state) owned structures, facilities, and uses;
- Hospital;
- Kiosk;
- Medical clinics, health care services;
- Museum/art gallery;
- Parking lot or garage, commercial or nonpaid for nonresidential use;
- Place of worship;
- Police station;
- Private utility office (no repair or outdoor storage);

- Radio or television broadcasting studio (without tower);
- Restaurant, cafeteria;
- Retail--General;
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(c) Conditional uses.

- College or university;
- Loft apartments;
- Municipal services support facilities;
- Personal Care Homes;
- Roof-top heliport or helistop;
- Single-family detached dwelling units;
- Townhouses.

(d) Lot area, height, and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Parking regulations.

~~Refer to~~See access and off-street parking ~~ordinance~~regulations in Article VI of Chapter 62~~, article VI, chapter 62~~.

(f) Architectural regulations.

Building permits within the DT-C~~, Downtown Civic Zoning~~ District will not be issued prior to the review and approval of the C~~c~~ity P~~p~~lanner or his or her designee to assure that new construction and/or additions to existing structures are in keeping with the significant architectural, historic, or cultural elements of the district. Regulations affecting the exterior of the building will be in accordance with the City's Design Guidelines for the Downtown Historic District and Other Local Commercial Historic Resources, and the Downtown Bryan Master Plan.

(g) Other regulations.

(1) Outdoor storage and display is prohibited, except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in ~~Section~~Sec. 130-34(m).

(2) Establishments selling alcoholic beverages within the DT-C~~, Downtown Civic Zoning~~ District shall be exempt from any regulations regarding their proximity to a public school, church, or a public hospital.

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of C~~c~~hapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Temporary structures including, but not limited to recreational vehicles, travel trailers, manufactured homes, or mobile homes will not be permitted in the DT-C~~, Downtown Civic Zoning~~ District.

(5) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(6) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(7) Special use licenses within the DT-C~~, Downtown Civic~~ District shall be allowed only as provided for in ~~section~~Sec. ~~62-243~~62-251.

Sec. 130-20 ~~The~~ SC, South College Districts.

The South College ~~Zoning~~ Districts are established to protect existing development and to promote future development, while maintaining the unique character along South College Avenue. The establishment of the South College ~~Zoning~~ Districts is one vital step in implementing The South College Avenue Corridor Redevelopment Plan, adopted in February 2001.

Sec. 130-21 SC-B, South College - Business District.

(a) General purpose and description.

The SC-B, South College - Business District is established to provide locations for various types of general retail trade, business and service uses. The district allows uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods. These areas should utilize established landscape and screening requirements to be compatible with the residential uses while adding diversity to the South College Corridor.

(b) Permitted uses.

- Accessory or incidental uses to the main use;
- Accessory structure (~~refer to~~See ~~section~~Sec. 130-34(a));
- Assisted Living Facilities;
- Bakery, commercial;
- Banks, savings, and loans or credit union offices;
- Barbershops and beauty salons;
- Bed and breakfast facility;
- Boardinghouse or lodginghouse;
- Bus terminal/station;
- Business or trade school;
- Charitable uses;
- Child care--Class B;
- Child care--Class C;
- Commercial amusement (indoor);
- Community/recreational center;
- Dance studio;
- Day spa;
- Engraving shop;
- Essential municipal uses;
- Fitness center;

- Fraternal/service organization;
- Funeral home/mortuary;
- Gasoline or service station;
- General office use;
- Government (federal or state) owned structures, facilities, or uses;
- Greenhouse/nursery (retail sales, outdoor plant display permitted);
- Hardware store;
- Kiosk;
- Laboratory (medical, optical);
- Laundromats/cleaners;
- Medical clinics, health care services;
- Micro-assembly;
- Motel, hotel;
- Museum/art gallery;
- Nightclub or tavern (5,000 square feet or less);
- Package liquor store;
- Pharmacies;
- Photography studio;
- Place of worship;
- Private utility office (no repair or outdoor storage);
- Radio or television broadcasting studio;
- Restaurant or cafeteria;
- Retail services;
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Veterinary services (no outdoor pens or runs).

(c) Conditional uses.

- Automobile repair (no outdoor storage);
- Automobile sales/rental/service (no outdoor storage or display area);
- Boat sales/rental/service (no outdoor storage or display area);
- Cabinet shop;
- Commercial amusement (outdoor);
- Courthouse (municipal, state or federal);
- Duplex;
- Fraternity/sorority house;
- Gaming establishments;
- Heating or air conditioning sales or service;
- Indoor archery and shooting range;
- Mini-warehouse/ self-storage;
- Motorcycle sales/rental/service (no outdoor storage);
- Multifamily dwelling;
- Municipal services support facilities;
- Nightclub or tavern (greater than 5,000 square feet);
- Patio home;
- Personal Care Homes;
- Plumbing service;

- Police station;
- Printing company;
- Retirement or nursing home;
- Roofing/siding company;
- Single-family detached dwelling;
- Townhouse.

(d) Height regulations.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Lot area and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(f) Parking regulations.

~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI, chapter 62~~.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Outdoor storage is prohibited, including the outdoor display or storage of vehicles. Outdoor plant displays are permitted where a greenhouse is a permitted use. Sidewalk display and outdoor display shall be permitted as provided for in ~~Section~~Sec. 130-34(m).

(3) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(4) Single-family detached dwelling permitted conditionally in this district shall conform to standards as specified in the RD-5 district. ~~Duplex~~Patio home, townhouse, and ~~patio home~~ duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169~~shall conform to standards as specified in section~~ , respectively~~130-34~~.

(5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of C~~c~~hapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(7) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Noise above the average intensity of street traffic is discernible beyond the property line.

d. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(8) Wireless telecommunications facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

Sec. 130-22 SC-R, South College - Residential District.

(a) General purpose and description.

The SC-R, South College - Residential District is intended to be composed of detached, single-family dwelling units. Single-family dwellings are designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses. Other uses may be permitted in this district which are compatible to single-family uses and that will enhance the overall aesthetics of the South College Corridor. The uses permitted conditionally shall be designed for their intended use and not infringe upon the residential uses.

(b) Permitted uses.

- Accessory structures 725 square feet or less in area (~~refer to section~~See Sec. 130-34(a));
- Essential municipal uses;
- Government owned structures, facilities, and uses;
- Group Homes/Community Homes
- Home occupations;
- Personal Care Homes;
- Place of worship;
- Private utilities (no outdoor storage yards);
- Schools;
- Single-family detached dwelling units;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(c) Conditional uses.

- Accessory dwelling unit;
- Accessory structure in excess of 725 square feet;
- Bed and breakfast;
- Boardinghouse or lodginghouse;
- Child care--Class B;
- Child care--Class C;
- Community/recreation center;
- Duplex;
- Fraternity/sorority house;
- Funeral home/mortuary;
- Multifamily dwelling;
- Municipal services support facilities;
- Neighborhood services;
- Patio home (zero lot line dwelling--minimum of ~~three~~ 3 lots);
- Police station;
- Professional offices;
- Retirement or nursing home;
- Townhouses.

(d) Lot area, height, and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Parking regulations.

~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI, chapter 62~~.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(2) Outdoor storage is prohibited (except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc.).

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of the C~~c~~hapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) ~~Duplex, p~~Patio home~~, and~~ townhouse and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169~~shall conform to standards as specified in section~~, respectively~~130-34~~.

(5) Professional offices, permitted conditionally in this district shall have one driveway. The minimum dimensions shall be 40 feet long by 18 feet wide so as to accommodate ~~four~~4 vehicles on the site.

(6) Professional offices, conditionally permitted in this district shall have a minimum of ~~eight~~ 8%~~percent~~ of the site landscaped.

Sec. 130-23 I, Industrial District.

(a) General purpose and description.

The I, Industrial District is intended primarily for the conduct of manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations which may depend upon frequent customer or client visits. Such uses do require accessibility to major highways, rail lines or other means of transportation requiring the distribution of goods.

(b) Permitted uses.

- Accessory/incidental uses to the main use;
- Adult entertainment;
- Airport/airfield (public or private);
- Antenna, commercial;
- Automobile repair;
- Auto sales/rental/service;
- Boat sales/rental/service;
- Building materials/hardware;
- Bus terminal/station;
- Cabinet shop;
- Cemetery;
- City of Bryan Fire Department Training Tower;
- Commercial amusement (indoor);

- Commercial bakery;
- Commercial laundries;
- Concrete or asphalt batching plant;
- Essential municipal uses;
- Fabrication;
- Farm equipment sales and service;
- Feed store;
- Flea market;
- Gaming establishments;
- Government (federal or state) owned structures, facilities, and uses;
- Heating and air conditioning sales and service;
- Ice company--Sales;
- Ice company--Wholesale;
- Incidental living quarters;
- Indoor archery or shooting range;
- Landscape service;
- Lumberyard;
- Machine shop;
- Manufacturing;
- Mini-warehouse/self-storage;
- Motorcycle sales/rental/service;
- Moving company;
- Nightclub/tavern;
- Office--Showroom/warehouse;
- Oil and gas well operations;
- Oil field equipment industrial outdoor storage yard;
- Industrial outdoor storage of materials and goods;
- Overnight delivery company;
- Paper/chemical suppliers;
- Place of worship;
- Plumbing shop;
- Power plants;
- Printing company;
- Public utility company with industrial outdoor storage;
- Recycling centers;
- Recycling collection point;
- Recreational/community center;
- Refuse systems;
- Restaurant;
- Roofing and siding company;
- Service facilities owned and operated by other municipalities;
- Service operations;
- Soil, crushed rock, gravel sales and industrial outdoor storage;
- Tattoo/piercing studio (see Sec. 130-34(n));
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Tool and machinery rental;
- Trailer rental;

- Truck rental;
- Truck repair/truck stop;
- Trucking company;
- Veterinary services with outdoor pens and runs;
- Warehousing;
- Well service operations;
- Wholesale operations;
- Wrecking yards (junkyards).

(c) Conditional uses.

- Commercial amusement (outdoor);
- Heliport/helistop;
- Municipal services support facilities;
- Recovery facility

(d) Maximum height.

None, unless adjacent to a residential district, then an additional two 2 feet setback for every one foot in height shall be observed adjacent to any residential property line. ~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Lot area and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(f) Parking regulations.

~~Refer to~~See access off-street parking in Article VI of Chapter 62~~, article VI, chapter 62~~.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Incidental living quarters for employees required by job duties to remain on the site for limited periods are permitted. Such quarters shall be provided in permanent structures that are an integral part of the use associated permitted in this district.

(3) Adult entertainment uses permitted in this district shall not be located within 1,000 feet of a public school, public hospital, church, or residential district. The distance shall be measured from the front (main) door of the adult entertainment establishment to the front (main) door of a school, hospital, or church, or to a residential district boundary. Adult entertainment uses shall not be located within 1,000 feet of another adult entertainment use. The distance shall be measured from the front (main) door of the adult entertainment establishment to the front (main) door of another adult entertainment establishment.

(4) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62,~~ before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(7) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(h) Performance standards.

The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

(1) Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

(2) Vibration is discernible beyond the property line.

(3) Noise above the average intensity of street traffic is discernible beyond the property line.

(4) Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

Sec. 130-24 HP, Historic Preservation Overlay District.

(a) General purpose and description.

The City Council of Bryan, Texas hereby declares that as a matter of public policy the preservation, protection, enhancement, and perpetuation of properties of historic and cultural importance and significance are necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the City of Bryan represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This section is intended to:

(1) preserve, protect and enhance the properties which represent distinctive elements of Bryan's historic, architectural, and cultural heritage;

(2) foster civic pride in the accomplishments of the past;

(3) preserve, protect and enhance Bryan's attractiveness to visitors and the support and stimulus to the economy thereby provided;

(4) insure the harmonious, orderly, and efficient growth and development of the City;

(5) promote economic prosperity and welfare of the community;

(6) encourage stabilization, restoration, and improvements of such properties and their values.

(b) Criteria for Designation of Historic Preservation Overlay District

A historic preservation overlay district may be designated if it meets any of the following criteria:

(1) Possesses significance in history, architecture, archeology, or culture.

(2) Embodies the distinctive characteristics of a type, period, or method of construction.

(3) Represents the work of a master designer, builder, or craftsman.

(4) Represents an established and familiar visual feature of the City.

(5) Meets the criteria established by the National Register of Historic Places.

(6) Exemplification of the cultural, economic, social, ethnic or historical heritage of the City, state or nation;

(7) Location as the site of a significant historical event; and

(8) Identification with a person or persons who significantly contributed to the culture and development of the City, state or nation.

(c) Designation of Historic Preservation Overlay District

(1) These provisions pertain to the designation of historic property/properties by creating the Historic Preservation Overlay District, a part of ~~the~~ this ~~comprehensive~~ Z~~z~~oning ~~o~~Ordinance ~~of the City of Bryan~~.

(2) Eligible applicants are:

a. Property owner or 60% of property owners in a proposed district consisting of more than one property (1 vote per property);

b. Historic Landmark Commission, Planning and Zoning Commission, or City Council.

c. Historic Preservation Officer

(3) Applications to increase, decrease or establish boundaries of a historic preservation overlay district must include:

a. A legal description of the boundaries of the district;

b. A photograph or photographs of each contributing building, structure, site, area or land.

c. A description of all buildings, structure, site, area or land showing the condition, color, and architectural style of each and:

1. Date of construction, if known;

2. Builder or architect, if known;

3. Chain of uses and ownership;

4. Building materials;

5. Construction technique;

6. Summary of recognition of state or national government including reason designated, if applicable.

d. A statement of reasons for recommending designation or changes to the district, including a list of contributing buildings, structures, sites, areas or lands of importance and a description of the particular importance of each contributing building, structure, site, area or land.

e. Findings supporting establishment of or change to the district according to the criteria in this section and indicating the particular importance or value of the district;

f. Signature of applicant. Eligible applicants are: property owner [or 60% of owners (1 vote per property) in a proposed district of more than 1 property]; Historic Landmark Commission (as established in Chapter 2~~ of the Bryan Code of Ordinances~~); or Historic Preservation Officer.

(4) The Historic Landmark Commission shall conduct a public hearing on the proposed historic preservation overlay district. At the Historic Landmark Commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic preservation overlay district. The Historic Landmark Commission shall prepare a recommendation on the proposed change stating its findings, and

evaluation within ~~forty-five (45)~~45 days subsequent to the hearing on the proposed designation.

(5) Upon recommendation of the Historic Landmark Commission, the proposed historic preservation overlay district shall be submitted to the Planning and Zoning Commission within ~~forty-five (45)~~45 days from the date of the Historic Landmark Commission's recommendation. After a recommendation by the Historic Landmark Commission, all proposed historic preservation overlay districts shall follow procedures set forth in ~~Section~~Sec. 130-42~~ of this ordinance of the City of Bryan~~.

(6) Upon designation of a historic preservation overlay district, the City Council shall cause the designation to be recorded in the official zoning maps of the City of Bryan.

(d) Certificate of Appropriateness affecting Historic Preservation Overlay Districts.
Construction, reconstruction, alteration, restoration, rehabilitation, relocation, demolition, or any change visible from a public right-of-way of any historic property within a ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District shall not occur without prior approval of a Certificate of Appropriateness from the Historic Landmark Commission. The Building Official, Historic Preservation Officer, or his/her designee shall not issue a building permit without a Certificate of Appropriateness having been granted.

(e) Criteria for approval of a certificate of appropriateness.
In considering an application for a Certificate of Appropriateness, the Historic Landmark Commission shall be guided by any adopted design guidelines, and where applicable, the following from The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. Any adopted design guidelines and Secretary of the Interior's Standards shall be on file within the Planning and Development Services Department and made available to the public.

(1) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.

(2) The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(3) All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, object, or site shall be kept when possible.

(6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.

(8) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.

(9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

(10) Whenever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

(11) Any design guidelines adopted by the Historic Landmark Commission or City Council.

(f) Certificate of Appropriateness Application Procedure

(1) Prior to the commencement of any work in the ~~h~~Historic ~~p~~Preservation ~~o~~Overlay ~~d~~District requiring a Certificate of Appropriateness the owner shall file an application for such a certificate with the Historic Landmark Commission. The application shall contain:

a. Name, address, telephone number of applicant.

b. Detailed description of proposed work.

c. Location and photograph of the property, including historic photographs, if available.

d. Elevation drawings of the proposed changes, if applicable.

e. Samples of materials to be used.

f. If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.

(2) Building permits shall not be issued for such proposed work until a Certificate of Appropriateness has first been issued by the Historic Landmark Commission. The Certificate of Appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Bryan.

(3) The Historic Landmark Commission shall review the application during a public meeting within ~~forty-five (45)~~45 days from the date the application is received. The Historic Landmark Commission shall act upon the Certificate of Appropriateness within ~~forty-five (45)~~45 days after the meeting. In the event the Historic Landmark Commission does not act within ~~ninety (90)~~90 days of the receipt of the application, a Certificate of Appropriateness shall be deemed granted. The Historic Landmark Commission's decision is limited to approve, approve with modifications; suspension of action for a specified time or deny.

(4) All decisions of the Historic Landmark Commission shall be in writing and shall state its findings pertaining to the application. A copy shall be sent to the applicant. Additional copies shall be filed as part of the public record on the subject property.

(5) An applicant for a Certificate of Appropriateness may appeal the decision of the Historic Landmark Commission to the City Council within ~~ten (10)~~10 days after such action.

(6) Certificate of Appropriateness' are valid for a period of ~~one (1)~~one year. Any work not completed within a one year period shall require a new Certificate of Appropriateness to be issued by the Historic Landmark Commission.

(g) Economic Hardship Application Procedure

(1) After receiving written notification from the Historic Landmark Commission of the denial of Certificate of Appropriateness, an applicant may commence the hardship process to obtain necessary building or demolition permits. No building permit or demolition permit shall be issued unless the Historic Landmark Commission makes a finding that hardship exists. When a claim of economic hardship is made due to the effect of this ~~o~~Ordinance, the owner must demonstrate to the Historic Landmark Commission that:

a. the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;

b. the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and

c. efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(2) The applicant shall consult with the Historic Landmark Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the Historic Landmark Commission.

(3) The Historic Landmark Commission shall hold a public hearing on the application within ~~sixty (60)~~60 days from the date the application is received by the Building Official, Historic Preservation Officer, or his/her designee. Following the hearing, the Commission has ~~thirty (30)~~30 days in which to prepare a written recommendation to the Building Official, Historic Preservation Officer, or his/her designee. In the event that the Historic Landmark Commission does not act within ninety (90) days of the receipt of the application, a permit may be granted.

(4) All decisions of the Historic Landmark Commission shall be in writing. A copy shall be sent to the applicant by mail and a copy filed with the City for public inspection. The Historic Landmark Commission's decision shall state the reasons for granting or denying the hardship application.

(5) Hardships shall not be granted if they are a result of the owner's actions.

(h) Ordinary Maintenance in a Historic Preservation Overlay District

Nothing in this ordinance shall be construed to prevent the ordinary maintenance, in-kind replacement, and repair of any exterior architectural feature of a property within a ~~h~~Historic P~~p~~reservation ~~o~~Overlay ~~d~~District which does not involve a change in design, material, or outward appearance. When the Building Official, Historic Preservation Officer, or his/her designee determines work has progressed beyond ordinary maintenance, the Commission shall review a request for a Certificate of Appropriateness.

(i) Demolition by Neglect

Owners or persons with an interest in real property included within a ~~h~~Historic ~~p~~Preservation O~~o~~verlay D~~d~~istrict shall not permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior feature which would produce a detrimental effect upon the character of the ~~h~~Historic P~~p~~reservation O~~o~~verlay ~~d~~District as a whole or the life and

character of the property itself. Examples of such deterioration may include, but shall not be limited to:

(1) Deterioration of exterior walls or other vertical supports.

(2) Deterioration of roof or other horizontal members.

(3) Deterioration of exterior chimneys.

(4) Deterioration or crumbling of exterior stucco or mortar.

(5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors.

(6) Deterioration of exterior architectural features.

(7) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(j) Sign Regulations

~~Refer to~~See Chapter 98~~: Signs of the Bryan Code of Ordinances~~.

Sec. 130-25 PD, Planned Development District.

(a) General description and purpose.

The PD, Planned Development District accommodates planned associations of uses developed as integral land use units such as industrial districts, offices, commercial or service centers, shopping centers, residential developments of multifamily ~~multiple~~ or mixed housing including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. A ~~Planned Development~~ PD District may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this chapter. While greater flexibility is given to allow special conditions or restrictions which would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility.

(b) Permitted uses.

Any use or combination of uses authorized by the Planning and Zoning Commission and the City Council is permitted in a ~~Planned Development~~ PD District if the use is consistent with the following categories:

(1) *Planned Development-Housing (PD-H).* Any use permitted in the RD-7, RD-5, and MF Districts are permitted in a PD-H development.

(2) *Planned Development-Business (PD-B).* Any use permitted in the C-1, C-2, and C-3 Districts are permitted in a PD-B development, excluding residential uses.

(3) *Planned Development-Industrial (PD-I).* Any use permitted in the I District is permitted in a PD-I development, excluding adult entertainment.

(4) *Planned Development-Mixed Use (PD-M).* Any use permitted in the RD-7, RD-5, MF, C-1, C-2, C-3, and I Districts is permitted in a PD-M development, excluding adult entertainment.

(c) Planned development requirements.

(1) Requests for a PD designation shall be processed as a rezoning request and shall follow the procedures stated in ~~section~~Sec. 130-42 unless otherwise specified in this section. A development plan for the proposed planned development shall be required that shows the

location of the planned development and the relationship of the various land uses included in the development. The form and content of the development plan shall be in accordance with the provisions of the ~~s~~Subdivision ~~o~~Ordinance regarding development plans. Development requirements for each separate PD District shall be included as a part of the development plan for each PD District and shall include, but may not be limited to: uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, project phasing or scheduling, management associations, and other requirements as the ~~c~~City ~~c~~Council and the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may deem appropriate. The preparation of preliminary and final plats for the development shall be prepared in accordance with the provisions of the ~~s~~Subdivision ~~o~~Ordinance and with any modifications approved by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission on the development plan.

(2) The PD District shall be designated as a zoning district on the zoning map.

(3) The ordinance granting a PD District shall include a statement as to the purpose and intent of the planned development granted therein.

(4) Development criteria.

a. Each proposed development shall be reviewed to determine the compatibility of the development with surrounding land uses. Open space buffers shall be required to separate land uses within the planned development from land uses adjacent to the planned development unless it is determined by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission that no incompatibility exists between the land uses. No structure, parking lot, equipment pad, or other manmade construction not approved by the City shall be placed in an open space buffer. The size and location of these buffers shall be determined by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission upon review of the development plan for the proposed development. The minimum size of an open space buffer shall be 25 feet measured from the exterior property line. Landscaping may be required within the buffer based on the location of existing development, the type of development, topography, or other criteria established by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission.

b. Where structures within the planned development that exceed 35 feet in height are proposed to be erected on lots adjacent to RD-7, RD-5, MU-1, or A-O Districts, such structures shall be located one foot from the boundary of the open space buffer described in ~~section~~Sec. 130-25(c)(4)a for each ~~two~~ 2 feet of height over 35 feet.

c. Planned developments designated as PD-B, PD-I, or PD-M shall have frontage along and access to a major arterial street on at least one side of the proposed development. Access through a residential area to a PD-B, PD-I, or PD-M via a local street is prohibited.

d. The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission or the ~~c~~City ~~c~~Council shall not approve a planned development if it finds that the proposed planned development:

e. Does not conform with applicable regulations and standards established by this chapter:

1. Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features, within the standards established by this section;

2. Potentially creates unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot be mitigated by the provisions of this section;

3. Adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area;

4. Fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts;

5. Adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs; or

6. Will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, for reasons specifically articulated by the commission.

(5) Unless otherwise specified in the approved development plan the minimum requirements for each development shall be those stated in the ~~s~~Subdivision ~~control o~~Ordinance (C~~c~~hapter 110) and the requirements of the most restrictive standard zoning district in which designated uses are permitted. There are no maximum height restrictions for planned developments except those noted in ~~section~~Sec. 130-25(c). The maximum housing density permitted in any planned development shall be no more than 50 dwelling units per acre.

(6) The granting of a PD designation shall not relieve the developer from responsibility for complying with all other applicable codes and ordinances of the City unless such relief is specified in the approved development plan.

(7) An owners association will be required if other satisfactory arrangements have not been made for providing, operating, and maintaining common facilities including streets, drives, service and parking areas, common open spaces, and common recreational areas at the time the development plan is submitted. If an owners association is required, the articles of incorporation of an owners association shall be reviewed by the City to assure compliance with the provisions of this chapter.

(d) Zoning district map.

All ~~planned development~~ PD ~~d~~Districts approved in accordance with the provisions of this chapter in its original form, or by subsequent amendments thereto, shall be referenced on the zoning district map, and a list of such ~~planned development~~ PD ~~d~~Districts, together with the category of uses permitted therein, shall be kept on file in the office of the C~~c~~ity S~~s~~ecretary or his or her designee.

Sec. 130-26 West Villa Maria, FM 2818, and FM 158 Corridor Overlay Districts.

(a) General purpose and description.

This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

(b) District boundaries.

The corridor overlay standards apply to the future development and use of all land within 200 feet or the depth of the abutting lot, whichever is less, on either side of the street right-of-way along the following specified thoroughfare segments.

(1) West Villa Maria Road from Finfeather Road to SH 47.

(2) FM 2818 (southwest side only) from Villa Maria Road southeastward to the City limits.

(3) FM 158 from 200 feet west of the intersection of Villa Maria Road to the City limits at Cole Lane.

Note: The depth of the corridor is 200 feet or the depth of the abutting lot, whichever is less.

(c) Screening and general appearance standards.

(1) Building materials.

At least 75% ~~percent~~ of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

(2) Utility equipment.

All heating, ventilation, air-conditioning, and utility equipment located outside of buildings shall be effectively screened from view from any street abutting the property with dense shrubbery having year-round foliage, decorative wall, fence, or architectural element of the building.

(3) Vehicle loading.

Vehicle loading and unloading areas shall be screened from view from any street abutting the property by a fence, wall, or architectural element of the building at least ~~six~~ 6 feet in height above the surface of the loading area or dock, as prescribed by the table below.

(4) Solid waste

Solid waste containers that are subject to current screening requirements shall be located such that the enclosure blocks the view of the container from any street abutting the property.

(5) Screening.

A decorative wall or landscaped earth berm at least ~~three~~ 3 feet in height, or dense shrubbery having year-round foliage at least ~~four~~4 feet in height, is required as a visual buffer along street frontages in the following circumstances.

a. Where outdoor parking areas are located within 50 feet of a certain distance from any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(6) Underground utilities.

All electric, telephone, and cable TV wires shall be buried underground from the property line to all structures being served on private or public property.

(7) Screening fences.

All screening fences, whether required or not, that are visible from a street shall be constructed of brick, stone, concrete panels, or a combination of these materials and solid wood (not including plywood or particleboard), with the wood section of fence not exceed 20

feet in length. Chainlink fences and corrugated metal or fiberglass panels are prohibited in all locations.

(8) Perimeter fence materials.
Where fencing is to be located along the boundary of a subdivision abutting the corridor overlay district, the style and materials used for all portions of the fence facing the corridor or any street within the boundaries of the corridor, shall be of uniform construction across all lots so situated in the same subdivision.

Standard	**West Villa Maria, FM 2818, FM 158**
Building materials	At least 75% ~~percent~~ nonmetallic
Utility equipment	Screened
Vehicle loading	Screened by an architectural element of at least ~~six~~ 6 feet in height
Solid waste containers	Screened
Street frontage screening	Screened by a wall or earth berm of at least ~~three~~ 3 feet in height, or shrubbery of at least ~~four~~4 feet in height
Outdoor parking	Screened when located within 50 feet of any street right-of-way
Fuel pumps	Screened
Vehicle drive-up window	Screened
Utility wires	Underground

Sec. 130-27 SH 47, Corridor Overlay District.

(a) General purpose and description.
This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

(b) District boundaries.
The corridor overlay standards apply to the future development and use of all land within 200 feet or the depth of the abutting lot, whichever is less, on either side of the street right-of-way along SH 47 inside the City limits. The depth of the corridor is 500 feet.

(c) Screening and general appearance standards.

(1) Building materials.
~~One hundred percent~~100% of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

(2) Utility equipment.
All heating, ventilation, air-conditioning, and utility equipment located outside of buildings shall be effectively screened from view from any street abutting the property with dense shrubbery having year-round foliage, decorative wall, fence, or architectural element of the building.

(3) Vehicle loading.
Vehicle loading and unloading areas shall be screened from view from any street abutting the property by a fence, wall, or architectural element of the building at least ~~six~~ 6 feet in height above the surface of the loading area or dock, as prescribed by the table below.

(4) Solid waste.
Solid waste containers that are subject to current screening requirements shall be located such that the enclosure blocks the view of the container from any street abutting the property.

(5) Screening.
A decorative wall or landscaped earth berm at least ~~three~~ 3 feet in height, or dense shrubbery having year-round foliage at least ~~four~~4 feet in height, is required as a visual buffer along street frontages in the following circumstances.

a. Where outdoor parking areas are located within 50 feet of any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(6) Underground utilities.
All electric, telephone, and cable TV wires shall be buried underground from the property line to all structures being served on private or public property.

(7) Screening fences.
All screening fences shall be 100% ~~percent~~ masonry.

(8) Perimeter fence materials.
Where fencing is to be located along the boundary of a subdivision abutting the corridor overlay district, the style and materials used for all portions of the fence facing the corridor or any street within the boundaries of the corridor, shall be of uniform construction across all lots so situated in the same subdivision.

Standard	**SH 47**
Building materials	100% ~~percent~~ nonmetallic
Utility equipment	Screened with landscaping or decorative elements
Vehicle loading	Screened with landscaping or decorative elements of at least ~~six~~ 6 feet in height
Solid waste containers	Screened with landscaping or decorative elements
Street frontage screening	Screened by a wall or earth berm of at least ~~three~~ 3 feet in height, or shrubbery of at least ~~four~~4 feet in height
Outdoor parking	N/A
Fuel pumps	Screened with landscaping or decorative elements
Vehicle drive-up window	Screened with landscaping or decorative elements
Utility wires	Underground
Fencing	Masonry

Sec. 130-28 SC, South College Corridor Overlay District.

(a) General purpose and description.

This overlay district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

(b) District boundaries.

The corridor overlay standards apply to the future development and use of all land within the South College Corridor. This corridor includes all land within the SC-B, South College - Business and SC-R, South College - Residential Districts found on the official zoning district map. Within 200 feet or the depth of the abutting lot, whichever is less.

(c) Screening and general appearance standards.

(1) Building materials.

~~One hundred percent~~ 100% of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

(2) Utility equipment.

All heating, ventilation, air-conditioning, and utility equipment located outside of buildings shall be effectively screened from view from any street abutting the property with dense shrubbery having year-round foliage, decorative wall, fence, or architectural element of the building.

(3) Vehicle loading.

Vehicle loading and unloading areas shall be screened from view from any street abutting the property by a fence, wall, or architectural element of the building at least ~~six~~ 6 feet in height above the surface of the loading area or dock, as prescribed by the table below.

(4) Solid waste.

Solid waste containers that are subject to current screening requirements shall be located such that the enclosure blocks the view of the container from any street abutting the property.

(5) Screening.

A decorative wall or landscaped earth berm at least ~~three~~ 3 feet in height, or dense shrubbery having year round foliage at least ~~four~~4 feet in height, is required as a visual buffer along street frontages in the following circumstances.

a. Where outdoor parking areas are located within 50 feet of ~~a certain distance from~~ any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(6) Underground utilities.
All electric, telephone, and cable TV wires shall be buried underground from the property line to all structures being served on private or public property.

(7) Screening fences.
All screening fences, whether required or not, that are visible from a street shall be constructed of brick, stone, concrete panels, or a combination of these materials and solid wood (not including plywood or particleboard), with the wood section of fence not to exceed 20 feet in length. Chainlink fences and corrugated metal or fiberglass panels are prohibited in all locations.

(8) Perimeter fence materials.
Where fencing is to be located along the boundary of a subdivision abutting the corridor overlay district, the style and materials used for all portions of the fence facing the corridor or any street within the boundaries of the corridor, shall be of uniform construction across all lots so situated in the same subdivision.

Standard	**South College**
Building materials	100% ~~percent~~% nonmetallic
Utility equipment	Screened
Vehicle loading	Screened by an architectural element of at least ~~six~~ 6 feet in height
Solid waste containers	Screened
Street frontage screening	Screened by a wall or earth berm of at least ~~three~~ 3 feet in height, or shrubbery of at least ~~four~~4 feet in height
Outdoor parking	Screened when visible from street right-of-way
Fuel pumps	Screened
Vehicle drive-up window	Screened
Utility wires	Underground

Sec. 130-29 MU-1, Mixed Use Residential District.

(a) General purpose and description.
The MU-1, Mixed Use Residential ~~Zoning~~ District is a special and unique zoning district, which will be appropriate to smaller lots in relatively few areas of the City. The district is intended as ~~a temporary district~~ an interim zoning classification to aid in transition of certain areas of the City to a permanent zoning district classification in the future. The uses in the MU-1 District are envisioned to be primarily single-family detached dwellings. Due to the age, previous platting, and subdivision patterns, and location of these areas, they contain a variety of residential types and uses. This district allows mobile homes and manufactured homes on individual lots and certain other dwelling types. Most of the areas zoned for MU-1 already have a high percentage of mixed residential uses. The use of this district is limited predominantly to areas platted and containing a variety of residential uses.

(b) Permitted uses.
All uses permitted in a RD-5 District with the addition of:

- Manufactured Homes on Individual Lots.

(c) Conditional uses.

Any conditional use allowed in a RD-5 District with the addition of:

- Manufactured housing land lease communities.

(d) Lot area, height, and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Parking regulations.

~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI, chapter 62~~.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62,~~ before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(3) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(g) Special requirements.

(1) All mobile/manufactured homes shall be placed, tied down, and secured according to the standards set forth by the ~~c~~Chief ~~b~~Building ~~o~~Official.

(2) Mobile homes in licensed mobile home parks shall comply with all applicable requirements of Chapter 74.~~as stated in the manufactured/mobile home park ordinance (chapter 74)~~.

(3) All mobile/manufactured homes shall be skirted with suitable weatherized material.

(4) Outdoor storage is prohibited (except for materials for the single-family resident's personal use or consumption, e.g., firewood, gardening materials, etc.).

(5) Residential dwelling permitted in this district shall conform to standards as specified in the RD-5 ~~d~~District.

(6) No temporary structures, such as recreational vehicles, travel trailers, or construction trailer (excluding mobile homes) may be used for on-site dwelling purposes.

(7) Patio homes shall be permitted only on lots specified for such a use in an approved plat (see ~~section~~Sec. 62-167, ~~130-34~~ for criteria). ~~Duplex and t~~Townhouse and duplex dwellings permitted conditionally are subject to the supplemental regulations of Sec. 62-168 and Sec. 62-169~~in this district shall conform to standards as specified in section 130-34(h) and 130-34(i)~~, respectively~~130-34~~.

Sec. 130-30 MU-2, Mixed Use District.

(a) General purpose and description.

The MU-2, Mixed Use District is a mixed land use area which was primarily a residential area at one time but has evolved into an area which has numerous nonresidential uses. The district is intended as ~~a temporary district~~ an interim zoning classification to aid in transition of certain areas of the City to a permanent zoning district classification in the future. Many of the nonresidential uses which now exist are in structures which were at one time used for residential

purposes. It is the intent of this district to allow certain uses which are compatible with existing land uses.

(b) Permitted uses.

- Accessory buildings (~~refer to~~See ~~section~~Sec. 130-34(a));
- Bed and breakfast;
- Beer and wine sales;
- Boardinghouse (lodginghouse);
- Child care--Class B;
- Convenience store;
- Community center or recreational center;
- Department store;
- Duplex;
- Essential municipal uses;
- Fraternity and sorority houses;
- General office use (professional, administrative);
- Government (federal or state) owned structures, facilities, and uses;
- Hardware store;
- Home occupations;
- Hospital;
- Landscape service;
- Laundromats (self-service washateria);
- Motorcycle sales;
- Moving company;
- Multifamily dwellings;
- Nursery (greenhouse);
- Paper and chemical suppliers;
- Patio home (zero lot line dwelling);
- Pawnshop that has been licensed to transact business by the state consumer credit commissioner under V.T.C.A., Finance Code ch. 371;
- Personal Care Homes;
- Place of worship;
- Printing company;
- Research labs;
- Roofing and siding company;
- Schools;
- Servant's quarters;
- Single-family detached dwelling;
- Sporting goods;
- Stadium;
- Tool rental;
- Townhouses;
- Trade or business school;
- Welding shop;
- Wholesale distributor.

(c) Conditional uses.

- Amusement arcade (video arcade);
- Auto repair/rental/sales;

- Bank and savings and loan;
- Building materials and hardware;
- Bus terminal/station;
- Cabinet shop;
- Cemetery;
- College or university;
- Country club;
- Feed store;
- Golf course;
- Greenhouse, commercial;
- Hotel or motel;
- Machine shop;
- Medical laboratory;
- Manufactured housing land lease community;
- Municipal services support facilities;
- Police station;
- Produce sales;
- Restaurant;
- Shopping center.

(d) Lot area, height, and setback requirements.

~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62~~.

(e) Parking regulations.

~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI, chapter 62~~.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62,~~ before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Single-family units constructed in this district shall conform to RD-5 ~~d~~District standards.

(5) ~~Duplex, p~~Patio home~~, and~~ townhouse and duplex dwellings permitted in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169~~shall conform to standards as specified in section~~ , respectively~~130-34~~.

(6) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes, may be used for on-site dwelling purposes.

(2) Outdoor storage and display is prohibited, except for materials for the single-family resident's personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in ~~Section~~Sec. 130-34(m).

Sec. 130-31 R-NC Residential-Neighborhood Conservation.

(a) General purpose and description.

The R-NC, Residential-Neighborhood Conservation District, is intended to be composed of detached dwelling units on lots of not less than ~~five thousand (5,000)~~5,000 square feet. Dwellings are designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses or rental property. Other uses may be permitted in this district which are compatible to residential uses and occupy structures designed for their intended use and do not infringe upon the residential uses.

(b) Permitted uses.

- Accessory structures;
- Detached dwelling units w/ no more than ~~two~~ 2 unrelated people;
- Essential municipal uses;
- Group home/community home;
- Government (federal or state) owned structures, facilities, and uses;
- Home occupations;
- Place of worship;
- Private utilities (no storage yards);
- Real estate sales offices during the development of residential subdivisions, but not to exceed ~~three~~ 3 years;
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(c) Conditional uses.

- Accessory dwelling unit;
- Accessory structure if greater than the standards set forth in ~~section~~Sec. 130-34(a);
- Bed and breakfast;
- Boarding (lodging) house;
- Child care--Class B;
- Community center/recreation center;
- Country club or golf course;
- Detached dwelling units w/ no more than ~~four~~ 4 unrelated people;
- Duplex;
- Funeral home/mortuary;
- Municipal services support facilities;
- Neighborhood services;
- Nursing home (retirement home);
- Patio home (zero lot line dwelling);
- Police station;
- Professional offices (In the Eastside Historic District, the building must also be used as a primary dwelling by the owner, managing partner or majority shareholder of the business occupying the building);
- Townhouses;

(d) Lot area, height, and setback requirements.
~~Refer to~~See building setbacks and lot standards in Article IV of Chapter 62~~, article IV, chapter 62, Bryan City Code~~.

(e) Parking regulations.
~~Refer to~~See access and off-street parking in Article VI of Chapter 62~~, article VI of chapter 62, Bryan City Code~~.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in ~~section~~Sec. 130-35.

(3) Foster children residing in licensed foster care homes shall not be included in the calculation of the number of unrelated individuals living together in a single dwelling unit. Licensed foster care homes shall comply with any state mandated restrictions on the number of children permitted to reside in the dwelling unit.

(4) Any dwelling unit permitted in this zoning district may have a second family comprised entirely of individuals related by blood, marriage or adoption, residing therein on a temporary basis for a period not exceeding ~~six~~ 6 months in any calendar year.

(5) Personal Care Homes are prohibited.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes

(2) Outdoor storage is prohibited (except for materials for the resident's personal use or consumption, i.e. firewood, gardening materials, etc.)

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of the nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62,~~ Bryan City Code, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) ~~Duplex, p~~Patio home~~, and~~ townhouse and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169~~shall conform to standards as specified in section~~ , respectively~~130-34~~.

(5) Professional offices, permitted conditionally in this district shall have one driveway. The minimum dimensions shall be 37 feet long by 18 feet wide so as to accommodate four vehicles on the site.

(6) Professional offices, conditionally permitted in this district shall have a minimum of ~~eight~~ 8% ~~percent~~ of the site landscaped.

Article III. "Other Regulations"

Sec. 130-32 Buffer area requirements.

(a) When it is determined that a zoning district abuts a noncompatible zoning district along a mutual side or rear property line or where separated only by an alley, setbacks shall be greater than the minimum requirements set forth in ~~section 130-32~~Chapter 62. The purpose of the additional

setback is to establish a buffer area to help mitigate noise, lighting, and other possible adverse impacts. No development shall be authorized within the buffer area except for required or permitted landscaping and screening, stormwater detention facilities, and pedestrian walkways. The increased setbacks, which are measured from the property line, shall be required on the property in the higher intensity zoning district, and shall be observed at the time of construction. These buffer requirements are in addition to the screening standards set forth in ~~section~~Sec. 130-37.

(b) The depth of the side and rear buffer setbacks shall be in accordance with the following:

(1) 100~~One hundred~~ feet in the I, Industrial District and for Municipal Services Support Facilities when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use District and all residential districts.

(2) 75 ~~Seventy-five~~ feet in the C-3, Commercial District and for Essential Municipal Uses when siding or backing on to C-1, Office and all residential districts.

(3) ~~Fifty~~ 50 feet in the C-2, Retail District when siding or backing on to all residential districts.

(4) ~~Twenty-five~~ 25 feet in C-1, Office District when siding or backing on to all residential fistricts.

(5) ~~Twenty-five~~ 25 feet in MF, Multiple-Family District when siding or backing on to all other residential districts ~~of less intensity (RD-7, RD-5, MU-1)~~.

(6) ~~Twenty-five~~ 25 feet in all nonresidential districts when adjacent to a single-family residence located within an A-O, District and no farther than 100 feet from the nonresidential district boundary.

(c) The depth of the buffer area may be reduced by the equivalent area of landscaping provided within the buffer area. No reductions in the setback area will be allowed where no landscaping is provided parallel to the property lines. In no event shall the reductions eliminate the standard setbacks provided in ~~section 130-32~~ Chapter 62. Landscaping used in place of screening, allowed in ~~section~~Sec. 130-37, shall not be used to reduce the buffer area. Square feet of coverage shall be based on the standards provided in all other applicable sections and/or ordinances. The request for reducing the buffer shall be submitted with a landscape plan. The minimum depth of the reduced buffer shall be:

(1) ~~Sixty~~ 60 feet in the I, Industrial District and Municipal Services Support Facilities when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use, and all residential districts.

(2) ~~Forty-five~~ 45 feet in the C-3, Commercial District and for Essential Municipal Uses when siding or backing on to C-1, Office and all residential districts.

(3) ~~Thirty~~ 30 feet in the C-2, Retail District when siding or backing on to all residential districts.

(4) ~~Fifteen~~ 15 feet in the C-1, Office District when siding or backing on to all residential districts.

(5) ~~Fifteen~~ 15 feet in the MF, Multiple-Family District when siding or backing on to all other residential districts ~~of less intensity (RD-7, RD-5, MU-1)~~.

(d) The depth of the side and rear buffer setbacks, with landscaping, for the Highway 47 Corridor Overlay shall be in accordance with the following:

(1) ~~Sixty~~ 60 feet in the I, Industrial District when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use, and all residential districts.

(2) ~~Fifty~~ 50 feet in the C-3, Commercial District when siding or backing on to C-1, Office and all residential districts.

(3) ~~Fifty~~ 50 feet in the C-2, Retail District when siding or backing on to all residential districts.

(4) ~~Fifty~~ 50 feet in the C-1, Office District when siding or backing on to all residential districts.

(5) ~~Fifty~~ 50 feet in the MF, Multiple-Family District when siding or backing on to all other residential districts.

(6) ~~One hundred~~ 100 feet in the I, Industrial District and/or Municipal Services Support Facilities when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use District and all residential districts.

Sec. 130-33 Conditional use permits.

(a) Purpose.

The purpose of the conditional use permit process is to identify those uses which might be appropriate within a zoning district but, due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them so as to mitigate or eliminate such adverse impacts.

(b) Authority.

The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may approve a conditional use permit for a use in any district in which such use is authorized under the conditional use list following proper application, and after notice to landowners within 200 feet of the subject property ~~ten~~10 days before the date of the public hearing and in accordance with the procedures and criteria herein established.

(c) Application and site plan required.

No building permit for a use authorized only as a conditional use within a zoning district shall be issued unless the applicant obtains a conditional use permit from the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. The application for a conditional use permit shall be accompanied by a site plan as required ~~in~~ for nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62~~. The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may require additional information or plans as necessary for review.

(d) Review and evaluation criteria.

(1) The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall not approve a plan for development of a conditional use if it finds the proposed development:

a. Does not conform with applicable regulations and standards established by this chapter;

b. Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features;

c. Potentially creates greater unfavorable effects or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use;

d. Adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use

and other uses reasonably anticipated in the area considering existing zoning and land uses in the area;

e. Fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts;

f. Adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs;

g. Fails to provide adequate and convenient off-street parking and loading facilities;

h. Fails to conform with the objectives and the purpose of the zoning district in which the development is located;

i. Will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, for reasons specifically articulated by the commission; or

j. The premises or structures are not suitable for the proposed use.

(2) Conditional use site plans considered by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall be approved only after the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission finds that the proposed development, if completed as proposed, will comply with all applicable provisions of this chapter and all conditions deemed necessary by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission.

(3) The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may establish such conditions of approval as are necessary to assure that the use meets the criteria set forth in Sec. 130-33(d)(1)~~subsection (a) of this section~~, which may include without limitation requirements for special yards, lot sizes, open spaces, buffers, fences, walls or screening; requirements for installation and maintenance of landscaping or erosion control measures; requirements for street improvements and dedications, regulation of vehicular ingress and egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; establishment of development schedules or time limits for performance or completion; and such other conditions as the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may deem necessary to ensure compatibility with surrounding uses and to preserve the public health, safety, and welfare. In imposing such conditions, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may act upon variance requests, subject to the same standards governing variances under ~~section~~Sec. 130-41~~130-43 of these regulations~~.

(e) Compliance.

(1) In granting a conditional use permit, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the ~~c~~Chief ~~b~~Building ~~o~~Official for use of the building on such property pursuant to such conditional use permit and such conditions precedent to the granting of the certificate of occupancy. Any special conditions shall be set forth in writing by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission in conjunction with approval of the conditional use permit.

(2) No conditional use permit shall be granted unless the applicant, owner or grantee of the conditional use permit is willing to accept and agree to be bound by and comply with the written requirements of the conditional use permit, as attached to the site plan drawing (or drawings) and as approved by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. A conditional use permit shall remain valid until such time as one of the following actions is taken:

a. The property is rezoned and the site is no longer listed as a conditional use;

b. Another conditional use permit is approved for the site;

c. The use of the premises changes; or

d. Access and construction-related permits necessary for completion of any site development plan have not been issued within 12 months of the Site Development Review Committee's approval (~~refer to~~See nonresidential and multifamily development~~,~~ in Article III of Chapter 62~~article III of chapter 62~~).

(3) No building, premises, or land used under a conditional use permit may be substantially changed unless a separate conditional use permit is granted for the change. In the event a change is not considered substantial, the Chair of the Site Development Review Committee may approve the change or forward to the Site Development Review Committee if the change affects the health, safety, or welfare of the public.

(4) Failure to implement and maintain the conditions as specified by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission in granting a conditional use permit is punishable by the provisions of ~~section~~Sec. 130-45.

(f) Appeal to ~~c~~City ~~c~~Council.

Approval or denial of an application for a conditional use permit, may be appealed to the ~~c~~City ~~c~~Council by the applicant for the permit or any owner of property located within 200 feet of the subject property. Written notice of appeal specifying the grounds for the appeal must be delivered to the ~~p~~Planning and Development ~~s~~Services Department within ~~ten~~10 calendar days after the date of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission's decision.

(g) Additional regulations for certain uses.

The following additional conditions and procedures shall apply to the uses listed below:

(1) Manufactured housing land lease communities: The proposed use shall comply with the standards set forth in the manufactured housing land lease communities ~~, new developments ordinance, section~~Sec. 130-36~~130-29~~.

(2) Historic Preservation Overlay Districts: any conditional use permit concerning property within a Historic Preservation Overlay District shall receive a recommendation to the Planning and Zoning Commission from the Historic Landmark Commission during a public hearing, following the standards of a Certificate of Appropriateness procedure set forth in ~~Section~~Sec. 130-24.

130-34 Special and supplementary regulations.

(a) Accessory structures.

(1) In a ~~RD, MF, or MU-1~~ residential district or on property occupied by a residential use, an accessory structure or use is a subordinate or incidental structure, attached to or detached from the main structure without separate kitchen facilities, not used for commercial purposes and not rented. Accessory uses permitted in residential districts or on property occupied by a residential use include:

a. Storage or work sheds and gazebos;

b. Detached garages;

c. One antenna (amateur radio, CB radio, or TV reception) and/or one satellite dish located in the rear yard only or on the roof (only one satellite dish per residential lot) including any tower or other supporting structure;

d. Private open space or other recreational amenities operated by a homeowners association.

(2) In other districts, an accessory structure is a subordinate structure, the use of which is incidental and is permitted when used only in conjunction with the main structure.

(3) Accessory uses prohibited in public rights-of-way of all zoning districts are as follows:

a. Fences.

b. Basketballs goals including those of which are portable.

c. All other objects with the exception of infrastructure or facilities owned by a utility company, governmental signs or utilities, mailboxes, and projecting signs within the DT-N~~, Downtown North~~, DT-S, ~~Downtown South,~~ and DT-C~~, Downtown Civic Zoning~~ Districts, and in all other zoning districts where attached to a legally nonconforming building, lawfully constructed on the property line immediately adjacent to the public right-of-way, and provided the projecting sign satisfies all of the special use license requirements of ~~section~~Sec. 62-251 of the Land and ~~s~~Site ~~d~~Development ~~review o~~Ordinance. For the use of this chapter, projecting signs shall be defined as the following: A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign. Any accessory use, including projecting signs, within a Texas Department of Transportation (TxDOT) right-of-way must also obtain permission from that authority.

(4) The combined square footage for accessory structures on a single property shall be limited in size providing the following:

a. 725~~Seven hundred twenty-five~~ square feet maximum when placed on a lot less than 7,001 square feet.

b. ~~One thousand twenty-five~~ 1,025 square feet maximum when placed on a lot between 7,001 square feet and one acre.

c. ~~One thousand five hundred~~ 1,500 square feet maximum when placed on a lot greater than one acre.

d. ~~One thousand five hundred and one~~ 1,501 square feet and greater will require a conditional use permit.

(5) Accessory structures must be designed and constructed so that they are in keeping with the general architecture of the main structure, and may not exceed the height of the main structure.

(b) Accessory dwelling units.

(1) Accessory dwelling units may be allowed by conditional use permit as an incidental residential use of a structure on the same lot as the main dwelling unit and used by the same person or persons of the immediate family, or servants employed on the premises, and meet the following standards:

a. Accessory dwelling units must be designed and constructed so that they are in keeping with the general architecture and building material of the main structure.

b. Manufactured homes are not permitted as accessory dwellings.

c. The accessory dwelling unit must be constructed to the rear of the main dwelling, separate from that upon which the main dwelling is constructed.

d. The accessory dwelling unit may be constructed only with the issuance of a building permit.

e. The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be rented or leased and may not be issued utility meters separate from the main structure.

f. The square footage of the accessory dwelling unit cannot exceed 1,000 square feet, nor be less than 400 square feet.

g. A minimum of one additional parking space shall be provided for each accessory dwelling unit located on the premises.

(c) Adult Entertainment.

~~**Specific Purposes and Legislative Findings Concerning Adult Entertainment**~~
~~In addition to the general purpose set out in § the city council makes the following specific findings regarding purpose and legislative facts with respect to the definition of "adult entertainment" contained in Sec.130-3.~~

(1) Adult entertainment definitions.

It is the purpose of this definition of "adult entertainment" and the related definitions contained under the definition of "adult entertainment" to regulate the use of property under the general zoning powers of a home rule City and under applicable Texas statutory law which authorizes home rule cities to divide cities into districts and regulate the use of property within the districts for the purpose of promotion of the health, safety and morals of the public, and for the protection of the general welfare of the community. They have been made with reasonable consideration, among other things, for the character of the district, and its suitability and compatibility for the particular uses specified; and with a view to conserving the value of buildings and neighborhoods, and encouraging the most appropriate use of land throughout the City. The provisions of this chapter are designed and intended to minimize the negative or adverse secondary effects of adult entertainment uses on the community. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize any activity that may be illegal under other applicable law.

(2) Locational regulations.

It is the intent of the ~~c~~City ~~c~~Council that the locational regulations of this chapter are promulgated pursuant to V.T.C.A., Local Government Code §243.001 et seq., as it applies to nude model studios and sexual encounter centers only. It is the intent of the ~~c~~City ~~c~~Council that all other provisions of this chapter are promulgated pursuant to the City Charter and V.T.C.A., Local Government Code §211 et seq. and other applicable law regarding zoning.

(3) Legislative findings concerning adult uses.

Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the ~~c~~City ~~c~~Council, and including findings incorporated in the cases of Young v. American Mini Theatres, 427 U.S. 50 (1976), City of Renton v. Playtime Theaters, 475 U.S. 41 (1986); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); Barnes v. Glen Theatre, Inc. 501 U.S. 560 (1991); City of Erie v. Pap's

A.M., 529 U.S. 277 (2000); H and A Land Properties v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007), including the studies referenced in these cases, such as in H and A Land Properties v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007) which contains and references studies in other communities, the ~~c~~City ~~c~~Council finds that:

a. Legislative Finding Number 1:
The ~~c~~City ~~c~~Council finds that V.T.C.A., Local Government Code §211, et seq., authorized home rule cities to divide cities into districts and regulate the use of property within the districts for the purpose of promotion of the health, safety and morals of the public, and for the protection of the general welfare of the community.

b. Legislative Finding Number 2:
The ~~c~~City ~~c~~Council finds that V.T.C.A., Local Government Code §211, et seq., authorized home rule cities to promulgate and enforce all ordinances necessary to protect health, life and property of the public, and to preserve the good government, order and security of such cities and their inhabitants.

c. Legislative Finding Number 3:
The ~~c~~City ~~c~~Council finds that V.T.C.A., Local Government Code §243, et seq., where the Texas legislature found that the unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity, and provided that does not diminish the authority of a local government to regulate sexually oriented businesses with regard to any matters, recognizes the negative secondary effects of such businesses.

d. Legislative Finding Number 4:
V.T.C.A., Local Government Code, §215.004 authorized home rule cities to enforce all ordinances necessary to protect health, life, and property, and to preserve the good government, order and security of such cities and their inhabitants.

e. Legislative Finding Number 5:
The ~~c~~City ~~c~~Council finds that studies conducted in other cities and states throughout the country have shown a decline in neighborhoods and neighborhood-oriented commercial, religious, and institutional facilities when exposed to sexually oriented or adult entertainment businesses as a negative secondary effect, and the result would not differ in the City of Bryan.

f. Legislative Finding Number 6:
The ~~c~~City ~~c~~Council finds that the Supreme Court of the United States and the Fifth Circuit for the United States Court of Appeals have upheld the validity of such controls that locate these kinds of activities within zoning districts that are less sensitive to their blighting influences and other negative secondary influences.

g. Legislative Finding Number 7:
The ~~c~~City ~~c~~Council finds, based upon the experiences of the cities in Texas and elsewhere in the country, that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature

h. Legislative Finding Number 8:
The ~~c~~City ~~c~~Council further finds, based upon the experiences of the cities in Texas and elsewhere in the country, that police departments of various communities have made a substantial number of arrests for sexually related crimes in adult entertainment establishments.

i. Legislative Finding Number 9:

The ~~c~~City ~~c~~Council finds that "adult entertainment" businesses, due to their very nature, have serious objectionable operational characteristics, thereby contributing to urban blight and downgrading the quality of life in adjacent areas.

j. Legislative Finding Number 10:

The ~~c~~City ~~c~~Council finds that there is convincing documentary and legislative evidence that sexually oriented businesses or "adult entertainment" as to be defined under the Bryan Code, because of their very nature, have deleterious, negative secondary effects on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the consequent downgrading of property values. Numerous studies, reports, and findings concerning the harmful effect of adult entertainment uses on surrounding land uses and neighborhoods have been produce before the Bryan City Council. One such example that has been presented to and considered by the ~~c~~City ~~c~~Council is the opinion of the Fifth Circuit for the United States Court of Appeals in H and A Land Properties v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007), and the ~~two~~ 2 studies approved by the Fifth Circuit as being evidence regarding the negative secondary effects of the sale of materials for off-site use, (1) "Adult Entertainment Business in Indianapolis" by Department of Metropolitan Development on Indianapolis (1984) and (2) the "Adult Entertainment Business in City of Oklahoma City", by the Community Development Department of Oklahoma City, in 1986, which have been also presented to and considered by the City Council, as well as various documentary evidence including studies from other cities and other evidence presented to the City Council at the hearings on this ordinance, including studies filed in the lower court in the City of Kennedale case, in Cause Number Civil Action No. 4:05-CV-166-A, in the Northern District of Texas, Fort Worth Division, including the opinions, reports and affidavits of (i) Connie B. Cooper, FAICP, -Expert Report; (ii) Expert Report of Richard McClearly PhD.; (iii) the summary of the study performed by April Virnig, dated July 3, 2003, for the City of Kennedale, which reference and describe certain studies such as:

1. Those studies noted and approved in H and A Land Properties v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007), including ~~two~~ 2 studies for sale of materials for off-site use (1) "Adult Entertainment Business in Indianapolis" by Department of Metropolitan Development on Indianapolis (1984) and (2) The City of Oklahoma City, by the Community Development Department in 1986. The Indianapolis survey, conducted by the City of Indianapolis in conjunction with Indiana University School of Business, Division of Research, polled 20% of the national membership of the American Institute of Real Estate Appraisers. Eighty percent of the respondents predicted that an adult bookstore would negatively impact residential property values, and ~~seventy-two~~72% ~~percent~~ believed commercial property value would also be negatively impacted. The Oklahoma City study, which surveyed ~~one hundred~~100 Oklahoma City real estate appraisers, produced similar results: ~~Seventy-four percent~~ 74% predicted a negative impact on real estate value in the surrounding area.

2. Amarillo, Texas. In 1977, the Amarillo Planning Department prepared a report entitled, "A Report on Entertainment Uses in Amarillo." The report concluded that adult entertainment uses have adverse impacts on surrounding land uses, and that those impacts can be distinguished from those of other businesses. The study found that street crime rates were considerably above the City's average in those areas

immediately surrounding the adult-only businesses, and that late at night, during their primary operating hours, those businesses create unique problems of noise, glare, and traffic.

3. Indianapolis, Indiana. In 1984, Indianapolis surveyed real estate experts on the impact that adult entertainment uses had on surrounding property values. A random sample (~~twenty (20) per cent~~20%) of the national membership of the American Institute of Real Estate appraisers was used. The opinion survey found that an adult bookstore located in the hypothetical neighborhood described would have a negative impact on residential property values of premises located within ~~one (1)~~one block of the site.

4. "Report of the Attorney General Working Group for the Regulation of Sexually Oriented Business", June, 1989, that references and analyzes a number of studies on communities across the country. For example, in 1987, the planning department of St. Paul, Minnesota completed a study entitled "Effect of Surrounding Area of Adult Entertainment Businesses." The study concluded that:

   (i) There was a statistically significant correlation between neighborhood deterioration as reflected in housing values and crime rates and the location of adult entertainment businesses;

   (ii) The statistical relationship was still significant after taking into account certain marketing factors; and

   (iii) There was a stronger correlation with neighborhood deterioration after establishment of an adult entertainment business than before.

5. Austin, Texas. In May, 1986, the Austin Planning Department published a report on adult businesses in Austin. An analysis of crime rates in Austin was conducted by comparing areas with adult businesses to areas without adult businesses. Four ~~(4)~~ study areas were chosen that did not contain adult businesses. Two ~~(2)~~ study areas were chosen containing only ~~one (1)~~one adult business each, and ~~two (2)~~2 study areas were chosen containing ~~two (2)~~2 adult businesses each. Within those study areas containing adult businesses, sex crimes were found to be from ~~two (2)~~2 to nearly ~~five (5)~~5 times the City-wide average. Also, sex-related crime rates were found to be ~~sixty-six (66) per cent~~ 66% higher in study areas containing ~~two (2)~~2 adult businesses as compared to study areas containing only ~~one (1)~~one adult business. Austin also conducted a survey of ~~one hundred twenty (120)~~120 real estate appraisers and lending institutions. Eighty-eight percent ~~(88) per cent~~ of those responding indicated a belief that an adult bookstore would decrease residential property values within ~~one (1)~~one block, and ~~fifty-nine (59) per cent~~59% felt that residential property values would decrease within ~~three (3)~~3 blocks. A survey of ~~three (3)~~3 adult businesses in Austin revealed that only ~~three (3)~~3 customers had addresses within ~~one (1)~~one mile of an adult business and ~~forty-four (44) per cent~~44% of all customers visiting the ~~three (3)~~3 adult businesses had addresses outside the City of Austin.

k. Legislative Finding Number 11:

The ~~c~~City ~~c~~Council is relying on the findings and studies listed above and is attempting to benefit the public welfare by proposing, examining and adopting zoning rules, definitions and provisions related to adult entertainment.

1. It is the express intent of the ~~c~~City ~~c~~Council to ensure that the adverse effects created by "adult entertainment" are minimized and controlled so as not to cause or

contribute to crime, increased blighting, or downgrading of adjacent property and the surrounding neighborhood.

2. The regulations established herein are intended to protect and preserve the quality, property values, integrity and character of the City's neighborhoods and commercial districts, deter the spread of urban blights, and protect the citizens of the City from the objectionable effects of sexually oriented businesses.

l. Legislative Finding Number 12:

The ~~c~~City ~~c~~Council finds, from the studies that have been presented, that, because of their very nature, adult entertainment uses can and should be relegated to nonresidential and non-retail zoning districts.

m. Legislative Finding Number 13:

1. The ~~c~~City ~~c~~Council finds, based on the purposes and legislative findings set out in this ordinance and from the studies noted in Legislative Finding Number 5, that adult entertainment uses should be ~~placed~~ an allowed use in the I, Industrial District (Sec. 130-23) ~~as currently provided in the Bryan Code of Ordinances~~. The ~~c~~City ~~c~~Council finds that there will be adequate locations for "adult entertainment" within the City in the area zoned Industrial for those uses already permitted in that district, and will not unreasonably limit alternative avenues of communication, while minimizing the adverse secondary effects of adult entertainment and providing the other purposes noted herein. There will be a sufficient number of sites provided by placing dispersed sites for "adult entertainment" in the Industrial District. The Industrial District composes approximately 33% of the area in the City of Bryan that is not zoned for residential types or agricultural types of uses. The areas inside those designated as Industrial District, are already served by Bryan infrastructure with respect to utilities, streets and other services, or such infrastructure is readily available.

~~(i) The relevant portion of 130-23(II) already currently provides such use, and the relevant specifications as follows are hereby affirmed and ratified under these findings:~~

~~(i) Sec. 130-23. I, Industrial District.~~

~~(i) I. General purpose and description. The I, Industrial District, is intended primarily for the conduct of manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations which may depend upon frequent customer or client visits. Such uses do require accessibility to major highways, rail lines or other means of transportation requiring the distribution of goods.~~

~~(i) II. Permitted uses.~~

~~(i) (a) Accessory/incidental uses to the main use;~~

~~(b) Adult entertainment;~~

2. Further, the ~~c~~City ~~c~~Council finds, based on the purposes and legislative findings set out in Sec. 130-23 ~~herein~~ and from the studies noted in Legislative Finding Number 5, that there will be a sufficient number of sites provided by requiring dispersed sites for "adult entertainment" under Sec. 130-23(g)(3), ~~where these uses shall not be located within 1,000 feet of a public school, public hospital, church, or residential district, and adult entertainment uses shall not be located within 1,000 feet of another adult entertainment use,~~ so as to allow for sufficient dispersal of such sites to prevent concentrations, thereby minimizing the adverse secondary effects, while not

unreasonably limiting alternative avenues of communication, and providing the other purposes noted herein.

~~(i) The relevant portion of Sec. 130-23(g)(3) already currently provides such requirements, and the relevant specifications as follows are hereby affirmed and ratified under these findings:~~

~~(i) Sec. 130-23.~~

~~(i) III. Other regulations.~~

~~(i) As established by all other applicable sections and/or ordinances.~~

~~(i) Incidental living quarters for employees required by job duties to remain on the site for limited periods are permitted. Such quarters shall be provided in permanent structures that are an integral part of the use associated permitted in this district.~~

~~(i) Adult entertainment uses permitted in this district shall not be located within 1,000 feet of a public school, public hospital, church, or residential district. The distance shall be measured from the front (main) door of the adult entertainment establishment to the front (main) door of a school, hospital, or church, or to a residential district boundary. Adult entertainment uses shall not be located within 1,000 feet of another adult entertainment use. The distance shall be measured from the front (main) door of the adult entertainment establishment to the front (main) door of another adult entertainment establishment.~~

~~(i) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.~~

~~(i) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, article III of chapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.~~

~~(i) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.~~

~~(i) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.~~

(d) Special height limitations.

The height limitations specified by this chapter and in building setbacks and lot standards (Article IV of Chapter 62)~~, article IV, chapter 62,~~ do not apply to cooling towers, chimneys, vent stacks, water stand pipes and tanks, steeples, spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(e) Modular buildings.

Modular buildings are allowed in any zoning district providing the following requirements are met:

(1) The building meets or exceeds all building code requirements that apply to other buildings concerning on-site construction.

(2) The building conforms to all applicable zoning standards for the respective zoning district.

(3) The building is affixed to a permanent concrete slab or grade beam foundation.

(4) The building is skirted with matching weatherized material if any space is exposed between the structure and the slab or ground.

(5) The ~~c~~Chief ~~b~~Building ~~o~~Official is so notified in writing for the purpose of establishing procedures for the inspection, issuing of building permits and the compliance with the Texas Industrialized Housing and Buildings Act (V.T.C.A., Occupations Code ch. 1202).

(f) Visibility at intersections in all districts.
In any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner to impair a vehicle driver's vision at intersections (streets, alleys, and driveways), within a triangle defined by the requirements of the American Association of State Highway and Transportation Officials.

(g) Patio home requirements.
See Land and Site Development Ordinance Sec. 62-167~~also chapter 62~~.

(h) Townhouse requirements.
See Land and Site Development Ordinance Sec.62-168~~also chapter 62~~.

(i) Duplex requirements.
See Land and Site Development Ordinance Sec. 62-169~~also chapter 62~~.
Duplex units shall conform to the requirements for single-family residential development as specified in each district unless otherwise specified in C~~c~~hapter 62.

(j) Neighborhood services.

(1) It is the intent of this chapter to preserve existing establishments that serve a small neighborhood area and to protect the surrounding residential land use from the adverse impacts of a nonresidential land use. Neighborhood service establishments requesting a conditional use permit shall provide a site plan in accordance with the full site review provisions of the nonresidential and multifamily development in Article III of Chapter 62~~, article III, chapter 62~~. Neighborhood services shall be limited to the following uses:

a. Grocery store;

b. Laundromat (self-service laundry, washateria);

c. Dry-cleaning drop-off (no onsite dry-cleaning);

d. Beauty shop or barbershop; or

e. Automated teller machine.

(2) Neighborhood services may be connected to or separate from a residential use located on the same lot or parcel. Such establishments shall:

a. Be limited in gross floor area to 5,000 square feet (business only);

b. Not include fuel sales or other fuel dispensing or storage operations;

c. Have no liquor sales; and

d. Be permitted beer and wine sales for off-premises consumption only.

(k) Construction standards.

(1) Buildings with metal exteriors are prohibited within all residential districts, with the exception of accessory structures, federal or state government owned structures, facilities and uses; manufactured housing when permitted; and temporary structures for uses incidental to

construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(2) All buildings within the C-1, Office and C-2, Retail Districts must have at least 50% ~~percent~~ of facades covered by masonry/brick construction or vinyl/wood siding or other nonmetallic material. Exceptions include federal or state government owned structures, facilities and uses; and temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(3) Structures, with foundations constructed after the February 12, 1990 (effective date of Zoning Ordinance), that allow areas for crawl space are required to have skirting or permanent enclosures. Skirting when installed shall be of material suitable for exterior exposure and contact with the ground. Permanent perimeter enclosures shall be constructed of materials as required by the City building code for regular foundation construction. Skirting will be constructed of fire resistant material. Skirting shall be installed in accordance with the skirting manufacturer's installation instructions. Skirting shall be adequately secured to assure stability, to minimize vibration and susceptibility to wind damage and to compensate for possible frost heave. Skirting shall follow all FEMA regulations regarding materials and construction in special flood hazard areas.

(l) Group Home and Personal Care Home requirements.

(1) Personal Care Homes are required to contact the local office of Area Agency on Aging (or successor agency) and provide their contact information

(2) Ten business days prior to opening, Group Homes and Personal Care Homes must register with the City. Proof of notification to the Area Agency on Aging (or successor agency) is required for registration of Personal Care Homes. There is no fee associated with the registration.

(3) Additional requirements for Group Homes and Personal Care Homes located in residential districts:

a. Residents of Group Homes and Personal Care Homes may not keep for the use of the residents of the home, either on the premises of the home or on the public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.

b. Group Homes and Personal Care Homes are allowed one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building.

(m) Outdoor display and storage requirements.

(1) Purpose.
To encourage the most appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of outdoor display and storage to be permitted in the various zoning districts in accordance with the following standards.

(2) Sidewalk display shall meet the following standards:

a. Sidewalk display shall be permitted adjacent to a principal building wall and extending a distance no greater than 5 feet from the wall.

b. Sidewalk display shall not block entrances, exits or required travel paths, and shall not impair emergency services access to any buildings.

c. Sidewalk display shall comply with all applicable standards established by the Americans with Disabilities Act and shall not obstruct the use of any crosswalk or wheelchair ramp.

d. Sidewalk display shall not be permitted to block any public pedestrian right of way.

e. Sidewalk display shall occur only during the business hours of the applicable business establishment.

(3) Outdoor display shall meet the following standards:

a. May include packaged merchandise, motor vehicles, RV's, trailers, farm equipment, construction equipment, accessory buildings for sale, rent or lease and other large items typically found on display outside in a retail environment.

b. Sample merchandise on display outdoors only during the business hours of the applicable business establishment need not be packaged.

c. Materials in bulk shall not be permitted in outdoor display.

d. Display of items that would normally be utilized outside, is not limited to sample items.

e. Except for items that would normally be stored and utilized outside, outdoor display shall be allowed only during the business hours of the applicable business establishment.

f. Outdoor display areas shall be located only on an improved surface.

g. Items stacked for outdoor display shall have an aggregate height no greater than 12 feet.

h. With the exception of motor vehicles, outdoor display shall not be located within minimum required building setback areas.

i. Outdoor display may be located in defined off-street parking areas to the extent that remaining available on-site parking is not reduced below the minimum amount required for the site by City development standards.

j. Outdoor display shall not be located in minimum required landscaped areas.

k. Outdoor display shall not block entrances, exits or required travel paths, and shall not impair emergency services access to any buildings.

l. Outdoor display shall comply with all applicable standards established by the Americans with Disabilities Act and shall not obstruct vehicular traffic, off-street parking, or the use of any crosswalk or wheelchair ramp.

m. Outdoor Display shall not be located in any public right-of-way, including sidewalks and alleys.

n. When located in defined off-street parking areas, outdoor display areas shall be separated from active drive aisles and parking areas by a physical barrier providing clear delineation of such storage area to shoppers and motorists.

(4) Limited outdoor storage shall require approval of a site plan by the City's Site Development Review Committee (SDRC) in accordance with requirements for site plan approval for nonresidential and multifamily developments of ~~Bryan Code of Ordinances~~ Chapter 62. The site plan must show dimensions and location of the proposed limited outdoor storage area. Limited outdoor storage shall meet all the following standards:

a. Limited outdoor storage shall not be more than 12 feet in height and shall be completely screened from view from any public right-of-way, public parking areas, or adjacent residential development by a 100% ~~percent~~ opaque visual barrier or screen.

b. In lieu of screening required by Sec. 130-34(m)(4)a~~subsection a) above~~, limited outdoor storage may be allowed without screening, if located a minimum of 150 feet from an adjacent street right-of-way.

c. Limited outdoor storage shall be located at least 15 feet from any public right-of-way and /or any abutting residential use.

d. Limited outdoor storage shall be located behind the primary front façade of the principle building on a site.

e. Limited outdoor storage may be located to the side of a building so long as it is not located within a minimum required side building setback area.

(5) General outdoor storage shall require approval of a site plan by the City's Site Development Review Committee (SDRC) in accordance with requirements for site plan approval for nonresidential and multifamily developments of ~~Bryan Code of Ordinances~~ Chapter 62. The site plan must show dimensions and location of the proposed limited outdoor storage area. General outdoor storage shall meet all the following standards.

a. General outdoor storage shall not be more than 12 feet in height and shall be completely screened from view from any public right-of-way, public parking areas, or adjacent residential development by a 100% ~~percent~~ opaque visual barrier or screen. Complete screening shall mean that no portion of the material stored is visible from outside the screening device.

b. General outdoor storage shall be located behind the primary front façade of the principle building on a site.

c. General outdoor storage shall be located at least 150 feet from the front property line and not closer than 150 feet from an existing residential use on an abutting property.

d. General outdoor storage shall not be located in minimum required side building setback areas and must be located at least 15 feet from any side property line.

(6) Industrial outdoor storage shall meet the following standards.

a. All material shall be screened when closer than 150 feet from a public right of way.

b. Uniform metal panel and / or chain-link with slat material shall be permitted as screening in the Industrial District.

(7) Outdoor display or storage shall be permitted in zoning districts as shown below:

	A-O	**RD-7**	**RD-5**	**RN-C**	**MU-1**	**MU-2**	**MF**	**C-1**	**C-2**	**C-3**	**DT-N**	**DT-S**	**DT-C**	**SC-B**	**SC-R**	**I**
Sidewalk Display	✓	x	x	x	x	✓	x	x	✓	✓	✓	✓	✓	✓	x	x
Outdoor Display	✓	x	x	x	x	✓	x	s	s	✓	x	x	x	s	x	x
Limited Outdoor Storage	s	x	x	x	x	x	x	x	x	s	x	x	x	x	x	x
General Outdoor Storage	s	x	x	x	x	x	x	x	x	s	x	x	x	x	x	x
Industrial Outdoor	s	x	x	x	x	x	x	x	x	x	x	x	x	x	x	✓

	A-O	RD-7	RD-5	RN-C	MU-1	MU-2	MF	C-1	C-2	C-3	DT-N	DT-S	DT-C	SC-B	SC-R	I
Storage																

x = not permitted
✓ = permitted by right
s = permitted upon approval by the Site Development Review Committee

(n) Tattoo Studio Requirements.

(1) All structures housing a tattoo studio use shall be located at least 5,280 feet from another structure housing a tattoo studio use.

(2) All structures housing a tattoo studio use shall have a minimum of 3,000 square feet of floor area and a maximum of 5,000 square feet of floor area.

(3) Consumption of alcoholic beverages shall be prohibited in the tattoo studio (in accordance with 25 Texas Administrative Code, Chapter 229, Subchapter V, "Minimum Standards for Licensure of Tattoo and Certain Body Piercing Studios", Rule 229.404(h) as may be amended from time to time).

(o) Credit Access Business.

(1) A structure containing a credit access business shall be located at least 1,000 feet from another structure containing another credit access business, as measured in a straight line between the nearest points of one structure to the other structure.

(2) A lot containing a credit access business shall be located at least 200 feet from any lot zoned or used for residential purposes, as measured in a straight line between the nearest points of one lot to the residential lot.

(3) A lot containing a credit access business shall not be located on property fronting a street classified as a Major Arterial or greater, as designated by the Bryan Thoroughfare Plan.

(4) No credit access business shall be permitted on a lot wholly or partially located within the West Villa Maria Corridor Overlay District, the FM 2818 Corridor Overlay District, the FM 158 Corridor Overlay District, or the SH 47 Corridor Overlay District.

(5) A credit access business shall be situated only within a freestanding structure and shall not be collocated in the same structure as other uses.

Sec. 130-35 Wireless telecommunication facilities.

(a) Definitions.

In interpreting and administering the wireless telecommunication facility regulations of this Zoning Ordinance and the Land and Site Development Ordinance (Chapter 62), ~~T~~the following words, terms and phrases~~, when used in this section~~, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration shall mean any modification, replacement, or reconstruction that materially increases the height or any other dimension of a WTF.

Antenna shall mean any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency signals:

Omni-directional antenna (also known as a "whip" antenna) transmits and receives radio frequency signals in a 360 degree radial pattern.

Directional antenna (also known as a "panel" antenna) transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.

Parabolic antenna (also known as a "dish" antenna or satellite dish) is a bowl-shaped device for the reception and/or transmission of radio frequency signals in a specific directional pattern.

Attached wireless telecommunication facility shall mean a wireless telecommunication facility that is affixed to an existing structure that is not primarily used for the support or attachment of a wireless telecommunication facility and is not a normal component of such a facility.

Collocation shall mean when more than one wireless telecommunications provider shares a wireless telecommunications support structure.

Compound shall mean the fenced WTF area which may be a portion of a parcel or site, or the entire parcel or site.

Direct-to-home services shall mean the distribution or broadcasting or programming or services by satellite directly to the subscriber's premises without use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite; examples are direct broadcast satellites (DBS), multichannel multipoint distribution system (MMDS), and television broadcast stations (TVBS).

Existing support structure shall mean any structure existing prior to the adoption of the ordinance from which this section ~~chapter~~ is derived that currently supports or can support a wireless telecommunication facility.

FAA shall mean Federal Aviation Administration.

FCC shall mean Federal Communications Commission.

Height shall mean the distance measured from ground level at the base of a wireless telecommunication facility to the highest point on the facility including any antenna or related equipment.

Historic resource shall mean any district, structure or site designated as historically significant by any lawfully authorized local, state or federal historic preservation entity or governmental entity, including the City.

Intermediate facility see Sec. 130-35(b)(1)b. ~~shall mean a WTF measuring no more than 110 feet (or 33 meters) but greater than 35 feet (or 10.5 meters) in height.~~

Major facility see Sec. 130-35(b)(1)c.~~shall mean a WTF measuring greater than 110 feet (or 33 meters) in height.~~

Minor facility see Sec. 130-35(b)(1)a. ~~shall mean a WTF measuring 35 feet (or 10.5 meters) or less in height (includes private or commercial ham radio operators, repeaters, whip, directional, or parabolic antennas or any other small antenna facility).~~

Related equipment shall mean all equipment or structures ancillary to the transmission and reception of voice and data via radio frequencies; such equipment or structures may include, but are not limited to, cable, conduit and connectors, cabinets, and fencing.

Service provider shall mean any company, corporation, alliance, individual or other legal entity that provides a wireless telecommunication service directly to the public for a fee or to such classes of users as to be effectively available directly to the public regardless of the facilities

used; services include, but are not limited to portable phones, car phones, pagers, digital data transmission, or radio or television communications.

Stealth technology or *stealth facility* shall mean design technology that blends the WTF into the surrounding environment, so it is unrecognizable as a telecommunications facility; examples of stealth facilities include but are not limited to architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements such as church spires or window wall, and antenna structures designed to resemble light poles or flagpoles.

Support structure shall mean any structure that supports a wireless telecommunication facility; support structure types include, but are not limited to, any existing or newly constructed structure such as buildings, water towers, light poles, stanchions, monopoles, lattice towers, wood poles or guyed towers.

Transmission tower shall mean a wireless telecommunications support structure designed primarily for the support and attachment of a wireless telecommunications facility. Transmission towers include:

Monopole tower. A self-supporting structure composed of a single spire used to support telecommunications antenna and/or related equipment.

Lattice tower. A self-supporting ~~three~~ 3- or ~~four~~ 4-sided, open, steel frame structure used to support telecommunications antenna and/or related equipment.

Guyed tower. An open, steel frame that requires wires and anchor bolts for support.

Wireless telecommunications facility (WTF) shall mean an unstaffed facility operating for the transmission and reception of low-power radio signals consisting of an equipment shelter or cabinet, a support structure, antennas (e.g., omni-directional, panel/directional, or parabolic) and related equipment.

(b) Zoning for WTFs.

(1) WTF use categories.

Wireless telecommunication facilities are allowed and encouraged to locate in the City. In order to expedite the siting process for WTFs and to accommodate the various regulations for handling these facilities according to the FCC, the ~~p~~Planning and Development ~~s~~Services ~~staff~~ Department has determined ~~three~~ 3 general use categories for WTFs. The use categories are minor facility, intermediate facility, and major facility as follows:

a. Minor facility.

1. A new transmission tower 35 feet (or 10.5 meters) or less in height;
2. Parabolic antenna one meter or less;
3. Parabolic antenna over one meter and less than or equal to ~~two~~ 2 meters;
4. Omni-directional antenna (whip antenna) ~~six~~ 6 inches in diameter or less and not extending over 12 inches above support structure;
5. Directional antenna one meter or less measured across the longest dimension and not extending over 12 inches above support structure;
6. Direct-to-home service antenna and citizen's radio band antenna;
7. Stealth facility 35 feet (or 10.5 meters) or less in height.

b. Intermediate facility.

1. A new transmission tower greater than 35 feet (10.5 meters) and less than or equal to 110 feet (33 meters) in height;
2. Parabolic antenna over ~~two~~ 2 meters;
3. Omni-directional antenna (whip antenna) greater than ~~six~~ 6 inches in diameter and/or extending 12 inches above the support structure;
4. Directional antenna over one meter measured across the longest dimension and extending over 12 inches above support structure;
5. Stealth facility greater than 35 feet (10.5 meters) and less than or equal to 110 feet (33 meters) in height.

c. Major facility.

1. A new transmission tower greater than 110 feet (33 meters) in height;
2. Stealth facility greater than 110 feet (33 meters) in height.

(2) Wireless Telecommunications Facilities Siting Matrix

Wireless telecommunication facilities are allowed, as indicated in the following table:

P = Permitted as of right *C = Conditional use permit required* *– = Prohibited*	**A-O**	**RD-5** **RD-7**	**MF**	**C-1** **C-2** **C-3**	**I**	**MU-1** **MU-2**	**CO**	**HP/D**	**HP/E**
Minor Facility									
a. New transmission tower ≤ 35 feet (10.5 meters) in height	C	C	P	P	P	C	C	C	–
b. Parabolic antenna 1 meter or less	P	P	P	P	P	P	P	P	P
c. Parabolic antenna over 1 meter and under 2 meters	P	P	P	P	P	P	P	P	–
d. Omni-directional antenna (whip antenna) 6” in diameter or less and not extending 12’ above support structure	P	P	P	P	P	P	P	P	P
e. Directional antenna 1 meter or less measured across the longest dimension	P	P	P	P	P	P	P	P	P
f. Direct-to-home service antenna and citizen’s band radio	P	P	P	P	P	P	P	P	P
g. Stealth facility ≤ 35 feet (10.5 meters) in height	P	P	P	P	P	P	P	P	P
Intermediate Facility									
a. New transmission tower > 35 feet (10.5 meters) and ≤ 110 feet (33 meters) in height	C	C	C	C	P	C	C	C	–
b. Parabolic antenna over 2 meters	P	P	P	P	P	P	P	P	–
c. Omni-directional antenna (whip antenna) greater than 6” in diameter and/or extending 12’ above support structure	P	P	P	P	P	P	P	P	–
d. Directional antenna over 1 meter measured across the longest dimension	P	P	P	P	P	P	P	P	–
e. Stealth facility > 35 feet (10.5 meters) and ≤ 110 feet	P	P	P	P	P	P	P	P	P

P = Permitted as of right *C = Conditional use permit required* *– = Prohibited*	**A-O**	**RD-5** **RD-7**	**MF**	**C-1** **C-2** **C-3**	**I**	**MU-1** **MU-2**	**CO**	**HP/D**	**HP/E**
(33 meters) in height									
Major Facility									
a. New transmission tower > 110 feet (33 meters) and ≤ 200 feet in height	C	C	C	C	P	C	C	C	–
b. Stealth facility > 110 feet (33 meters) and ≤ 200 feet in height	C	C	C	C	P	C	C	C	C

CO = Villa Maria Corridor; HP/D = Downtown Historic District; and HP/E = Eastside Historic District

(3) Height and Site Development Regulations

See Article IX of Chapter 62 for additional regulations that apply to wireless telecommunications facilities.

(c) Conditional use permits.

Some minor transmission towers and all intermediate and major transmission towers require a conditional use permit (CUP) from the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may place additional conditions on the site where it deems necessary to do so to protect the health, safety and general welfare of the public. The criteria in ~~section~~Sec. 130-33 will govern the issuance of conditional use permits for WTFs. In addition to the standard criteria the following additional factors shall be considered when determining whether to grant a conditional use permit for WTFs:

(1) Height of the proposed tower, surrounding topography and surrounding tree coverage and foliage as they relate to:

a. Skyline impact, examining whether the proportions of the structure appear to "loom" over or blend in with the surrounding environment; and

b. Shadow impact, whether or not the proposed tower will cast shadows that would prevent the reasonable use or enjoyment of surrounding properties.

(2) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

(3) Proximity of the tower to residential structures and residential district/boundaries.

(4) Economic impact on adjacent and nearby properties.

(5) Proposed ingress and egress.

(6) Availability of suitable alternative, existing support structures.

Sec. 130-36 Manufactured housing land lease communities ~~new development~~.

(a) Permits for new manufactured housing land lease communities.

Manufactured housing land lease communities created on or after January 1, 2000, shall be required to be licensed in accordance with the standards in this chapter. It shall be unlawful for any person to connect utilities to or to occupy a manufactured home in a new manufactured home in a new manufactured housing land lease community within the City limits unless the community is duly licensed under the terms of this chapter. Licenses shall be issued and renewed

annually by the City building services department. Application for a license shall be made in writing, signed by the applicant, and accompanied by an affidavit of the applicant as to the truth of the application. Applications shall include the name and address of the applicant, the location and legal description of the community, and a master plan of the community. Additionally, a deposit fee, based on the proposed number of lease lots within the community, will be required at time of application. The ~~c~~Chief ~~b~~Building ~~o~~Official or his or her agent shall renew licenses annually following a satisfactory inspection of the property for compliance with this chapter. Whenever, upon inspection of the property, the ~~c~~Chief ~~b~~Building ~~o~~Official finds conditions or practices which are in violation of this chapter, written notice shall be given to the license holder. The notification shall state that such conditions or practices must be corrected within a specified period of time, based on the nature and severity of the violation. At the end of the specified time, the ~~c~~Chief ~~b~~Building ~~o~~Official shall re-inspect the property for compliance. Failure to correct the conditions or practices within the specified time shall result in a suspension of the license. The license holder will be issued written notice of the suspension. Upon receipt of the notice of suspension, such person shall cease operation of the manufactured housing land lease community. A manufactured housing land lease community, which does not conform to the regulations of the zoning district in which it is located, shall be deemed a nonconforming use and subject to ~~section~~Sec. 130-40~~130-41~~. A lapse of a current license shall be considered as an abandonment of the nonconforming status.

(b) Inspections of manufactured housing land lease communities.

The ~~c~~Chief ~~b~~Building ~~o~~Official or his or her agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this chapter. The ~~c~~Chief ~~b~~Building ~~o~~Official or his or her agent shall have the authority to enter upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter. It shall be the duty of the land lease community management to give access to the inspector to all lots during normal business hours.

(c) Zoning for manufactured housing land lease communities.

New development of a manufactured housing land lease community shall require a conditional use permit (CUP) from the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may place additional conditions on the site where it deems necessary to do so to protect the health, safety and general welfare of the public and where such conditions will promote and uphold the City comprehensive plan. The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may also take into consideration the proposed location of the manufactured housing land lease community in relation to present and anticipated future land use. The ~~criterion in~~ regulations of ~~section~~Sec. 130-33 ~~will~~ govern the issuance of conditional use permits in the following zoning districts:

(1) A-O, Agricultural-Open District;

(2) MF, Multiple-Family District; and

(3) MU-1, Mixed-Use Residential District.

(d) Development standards for manufactured housing land lease communities.

(1) Housing type standards.

To ensure the protection of the health, safety, and general welfare of the public, only HUD-Code manufactured homes, as defined by this chapter, shall be permitted to locate within manufactured housing land lease communities. Mobile homes and recreational vehicles, as defined by this chapter, shall not be permitted within a manufactured housing land lease community.

(2) Skirting requirements.

To ensure the protection of the health, safety, and general welfare of the public, all manufactured homes shall have skirting permanently installed and extending to the ground. Skirting material to be a durable, exterior material consistent with the exterior cladding of the home. All tow bars, wheels and axles shall be removed when the manufactured home is installed.

(3) Foundation requirements.

To ensure the protection of the health, safety, and general welfare of the public, all manufactured homes within manufactured housing land lease communities shall be installed on a "properly engineered foundation system" which meets the manufacturer's installation requirements and the Texas Manufactured Housing Standards Act (V.T.C.A., Occupations Code ch. 1201).

(4) Maximum density standards.

To provide adequate privacy and to ensure the protection of the health, safety, and general welfare of the public, the density of any manufactured housing land lease community shall be no greater than ~~eight~~ 8 units per acre.

(5) Front setback requirements.

A setback area facing and abutting a street and/or sidewalk and extending across the front of a lot between the side lot lines and having a minimum horizontal depth of ~~ten~~10 feet. The setback shall be measured from the inside edge of the adjacent pavement, to the face of the manufactured home.

(6) Rear setback requirements.

A setback area located on a lot extending across the rear of the lot between the side lot lines and having a minimum horizontal depth of ~~ten~~10 feet. The setback is measured from the rear lot line to the face of the manufactured home.

(7) Building separation requirements.

To provide adequate privacy and to ensure the protection of the health, safety, and general welfare of the public, separation between manufactured homes shall be a minimum of 20 feet. Separation between manufactured homes shall be measured from the face of each structure. Separation between manufactured homes and accessory structures or between accessory structures (i.e., storage buildings, detached carports or garages) shall be a minimum of ~~ten~~10 feet, and shall be measured from the structure's eaves.

(8) Parkland requirements.

All residential subdivisions in the City limits of the city shall be required to provide for the parkland needs of future residents in accordance with Sec. 110-60 of the ~~Parkland Dedication Ordinance No. 690, and section 25-12 Parkland Dedication Requirements of the~~ Subdivision ~~Development~~ Ordinance ~~No. 1074~~.

(9) Common open area requirements.

To provide adequate recreational area for the residents of a manufactured housing land lease community, the following standards shall apply:

a. For communities with fewer than 20 lease lots, no minimum open recreational area will be required.

b. For communities with greater than 20 lease lots, a minimum of 250 square feet per lease lot will be required to be dedicated, improved and maintained for the recreational use of the residents of the community. The area dedicated for common open areas shall not

include the yard space of individual lease lots, street rights-of-way, required buffer areas or parking areas. The common open areas required shall be disbursed throughout the community to provide safe and easy access to all residents. No common open area shall be further than 500 feet from any dwelling unit within the community.

(10) Screening requirements.

To conserve and protect the privacy and value of adjacent properties, a screening fence is required for all manufactured housing land lease communities. ~~The criterion in section 130-41, will govern the location, materials and maintenance of the screening fence~~Screening fences must comply with the regulations of Sec. 130-37.

(11) Buffer area requirements.

To conserve and protect the privacy and value of adjacent properties, buffer areas shall be required for all manufactured housing land lease communities. The ~~criterion~~ regulations of ~~in section~~Sec. 130-32~~130-30, will~~ govern the depth of side and rear buffer setbacks. In addition, a minimum 50-foot landscaped buffer area shall be provided along main entrances to the community from public rights-of-way. These buffer areas shall be landscaped in accordance with all other applicable sections and/or ordinances.

(12) Landscaping requirements.

Landscaping requirements for entry areas, common recreational areas, and buffer areas shall be the same as required for commercial developments in the City. The criteria set forth in all other applicable sections and/or ordinances will govern the standards for landscaping. In addition to these requirements, the land lease community shall be required to provide and maintain a minimum of one canopy tree (at minimum ~~two~~2-inch caliper size), either existing or new, for each individual lease lot.

(13) Public street requirements.

Public streets within manufactured housing land lease communities shall be designed and constructed in accordance with the Subdivision Ordinance (Chapter 110)~~The criterion in section 130-32, will govern the standards for public streets within manufactured housing land lease communities~~.

(14) Private street requirements.

Private streets within a manufactured housing land lease community shall have a minimum width of 20 feet, and constructed of concrete or asphalt. Design of private streets shall be reviewed and approved by engineering services. Block length between intersections of through streets shall not exceed 1,200 feet. Private streets shall be named and numbered in accordance with City addressing standards for emergency vehicle access.

(15) Public walkway requirements.

Public walkways shall be installed by the developer to provide access from each lease lot to all public amenities within the manufactured housing land lease communities, including but not limited to, visitor parking, community buildings, common open areas, etc. Public walkways shall be constructed of all-weather materials, and meet all applicable handicap accessibility guidelines. Public walkways must be physically separated from streets.

(16) Parking requirements.

The following standards apply to parking required for individual lease lots as well as separate spaces designated for visitor parking. No on-street parking shall be allowed within manufactured housing land lease communities.

a. Residential parking.

To provide adequate residential parking, each lease lot shall accommodate the following:

1. Single wide lots.

A minimum of ~~two~~ 2 vehicles on a paved surface by providing one of the following options:

(i) A ~~two~~ 2 car carport or garage;

(ii) A driveway measuring 12 feet wide by 37 feet deep; or

(iii) A driveway measuring 18 feet wide by 18 feet, ~~six~~ 6 inches deep. Driveway dimensions shall be measured from the interior edge of paving or sidewalk.

2. Double wide lots.

A minimum of ~~three~~ 3 vehicles on a paved surface by providing one of the following options:

(i) A ~~three~~ 3 car carport or garage,

(ii) A driveway measuring 12 feet wide by 55 feet, ~~six~~ 6 inches deep, or

(iii) A driveway measuring 27 feet wide by 18 feet, ~~six~~ 6 inches deep. Driveway dimensions shall be measured from the interior edge of paving or sidewalk.

b. Visitor parking requirements.

To provide adequate visitor parking, a minimum of one parking space per four 4 lease lots shall be provided in common parking areas. The parking and circulation ~~criterion in~~ regulations of 63-28 ~~section 62-297 of the access and off-street parking, article VI, chapter 62 will~~ govern the design and standards for common parking areas.

(17) Storage requirements.

To provide adequate and safe storage of personal items, a storage building providing a minimum of 80 square feet of storage shall be provided on each lease lot. Storage buildings shall be of uniform and consistent design among all lease lots, and are to be placed on the lot in such a manner to assure adequate separation between structures. No storage is to be permitted underneath the manufactured home.

(18) Floodplain requirements.

To provide adequate protection against flooding, all manufactured land lease communities shall be in compliance with ~~section 46-338~~ Chapter 46.

(19) Fire protection.

The manufactured housing land lease communities shall be subject to the rules and ordinances of the City fire prevention authority and codes.

(20) Water supply.

Individual water riser pipes shall be so located on each lease lot so that the water connection to the manufactured home will approximate a vertical position. Water connections shall include a cut-off valve before the line enters the home.

(21) Sanitary sewer requirements.

All sewer lines shall be located in trenches of sufficient depth to be free of breakage and be separated from the water supply system by a safe distance in accordance with the City plumbing code. Sewers shall be at a grade that will ensure a velocity of ~~two~~ 2 feet per second when flowing full. All sewer lines shall be constructed of materials in accordance with the City plumbing code, have watertight joints, and shall be adequately vented. Each manufactured home shall be provided with at least a four-inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each lease lot so that the sewer connection to the manufactured home drain outlet will approximate a vertical position. The sewer connection

shall have a nominal inside diameter of at least ~~three~~ 3 inches, and the slope of any portion thereof shall be at least one-quarter inch per foot. The sewer connections shall consist of one pipeline only without any branch fittings. All materials used for sewer connections shall be semi-rigid, corrosive resistant, nonabsorbent and durable. Provisions shall be made for plugging the sewer riser pipe when a manufactured home does not occupy the lease lot. Surface drainage shall be diverted away from riser. The rim of the riser pipe shall extend at least ~~two~~ 2 inches above the ground elevation.

(22) Electrical requirements.

The power supply to a manufactured housing land lease community shall be installed and maintained in accordance with the City electrical code and BTU service entrance requirements. All manufactured housing land lease communities and every manufactured home within shall contain an electrical wiring system consisting of wiring, fixtures, equipment, and appurtenances which shall be installed and maintained in accordance with the current edition of the national electrical code governing such systems. The City electrical inspector shall make inspection of the service connections to the manufactured home.

Sec. 130-37 Screening fence standards.

(a) Purpose.

To encourage the most appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this section in accordance with the following standards. Screening regulations are required only when a full site plan review is required (see nonresidential and multifamily development in Article III of Chapter 62~~, article III of chapter 62~~).

(b) Location of required screening.

(1) When it is determined that a zoning district sides or backs upon a noncompatible zoning district, a solid screening wall or fence shall be erected along the property line, and within the property with the higher intensity zoning district. The screening requirements shall be observed at the time of rezoning and/or construction, or upon a change in use of the property where the screening shall be imposed. The purpose for the screening is to provide a visual barrier between the properties. The owner of such property shall be responsible for and shall build the required wall or fence. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence. Screening standards shall be in accordance with the following:

a. Screening required in the I, Industrial District when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use and all residential districts;

b. Screening required in the C-3, Commercial District when siding or backing on to C-1, Office District and all residential districts;

c. Screening required in the C-2, Retail and C-1, Office Districts when siding or backing on to all residential districts;

d. Screening required in the MF, Multiple-Family District when siding or backing on to all other residential districts ~~of less intensity (RD-7, RD-5, MU-1)~~;

e. Screening required in all nonresidential districts when adjacent to a single-family residence located within an A-O, Agricultural-Open District and no farther than 100 feet from the nonresidential district boundary;

f. Screening required in all nonresidential developed tracts of land within or adjacent to an existing single-family residential development.

(2) In any district where loading areas are visible from a public street, screening shall be provided adjacent to the loading area along the street, allowing for required landscaping. These standards shall be imposed except where such use was in existence at the date of the original adoption of the ~~z~~Zoning ~~o~~Ordinance (December 11, 1989).

(3) Where permitted, outdoor storage must be screened when visible from any public right-of-way, allowing for required landscaping. An outdoor storage permit may be granted by the Site Development Review Committee for any exceptions to screening and/or landscaping requirements. A person who violates any section of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine not exceeding $2,000.00 per occurrence in accordance with general penalty provisions of City Code Sec. 1-14.~~section 1-14~~.

(4) Dumpsters, not including containers 300 gallons or smaller, shall be placed on concrete dumpster pads ~~six~~6 inches in thickness, 15 feet in width and 12 feet in depth. The pad shall be screened with a ~~six~~6-foot fence on ~~three~~ 3 sides with the fourth side remaining open for access or being fitted with a gate matching the screening on the other ~~three~~ 3 sides.

(5) Where screening is required, the following standards shall be observed:

a. Materials approved for use in screening fences are solid wood (not including plywood, particleboard, or similar composite), masonry (brick or stone), or a combination solid wood and masonry. Corrugated metal or fiberglass panels shall not be used as fence materials. Screening shall be provided that completely blocks the view of materials, commodities, or equipment stored. All screening materials shall be finished on the sides facing public rights-of-way. Other types of screening devices may be approved by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission.

b. Landscaping may be used for screening if the plant materials used are a minimum of four feet tall at the time they are planted. Any plant materials used for screening purposes shall be of an evergreen nature and shall be of sufficient height and type to completely block the view of materials, commodities or equipment stored from adjacent public rights-of-way or property. Any time that plant materials are used for screening purposes, the developer shall post a cash bond to be held in escrow by the City to cover replacement of plant materials. The amount of such bond shall be determined by the C~~c~~ity P~~p~~lanner or his or her designee. The bond shall be effective for ~~two~~ 2 growing seasons from the time of the initial planting; any excess funds remaining from such bond shall be returned at the end of such period to the developer.

c. When screening is required to separate all other ~~single-family~~ residential districts ~~(RD-7, RD-5, MU-1)~~ from either the MF, Multiple-Family or a nonresidential district, or when screening is required to separate nonresidential development from single-family residential development, any fence or wall shall be not less than ~~six~~6 feet or exceed ~~eight~~ 8 feet in height above the grade of the adjacent property.

d. Along the property line between nonresidential districts, or on property adjacent to loading areas, outdoor storage and refuse areas, where screening is required, a minimum ~~six~~6 foot high uniform screening shall be provided.

(6) In any residential district, the maximum height of any fence or wall in a required front setback of a single-family, townhouse, duplex, or patio home lot, shall be as provided:

a. Fencing, screening walls or the combination of berms and fences or screening walls shall not exceed 36 inches in height when placed a distance of 25 feet or less from the adjacent paved street surface.

b. Fencing, screening walls or the combination of berms and fences or screening walls shall not exceed ~~six~~6 feet in height when placed a distance of more than 25 feet from the adjacent paved street surface.

(7) Where a fence is erected to the rear of the minimum required front setback line, the fence shall not exceed ~~eight~~ 8 feet in height above the grade of the adjacent property.

(8) A wall or fence, not less than 54 inches in height, with a self-latching gate at all entrances, shall enclose a swimming pool area or surrounding yard area.

(c) Maintenance of screening fences.
Any screening fence erected under the provisions of ~~section~~Sec. 130-37 shall be maintained by replacing or repairing any dead, loose, damaged, or missing fencing materials within 30 days after notification by the zoning official.

Sec. 130-38 Platting property not permanently zoned.

(a) The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission of the City shall not approve any plat of any subdivision within the City limits of the City until the area covered by the proposed plat shall have been permanently zoned by the ~~c~~City ~~c~~Council of the City. A plat may be approved on land with the Agricultural-Open District designation if the proposed use of the property is determined to be the permanent use of the property.

(b) The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission of the City shall not approve any plat or any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the City is pending before the ~~c~~City ~~c~~Council unless and until such annexation shall have been approved by ordinance by the ~~c~~City ~~c~~Council.

(c) In the event the ~~c~~City ~~c~~Council cannot schedule a public hearing on a proposed annexation, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, at its discretion, may hold a public hearing on the permanent zoning that is to be given to the area or tract to be annexed. The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may make a recommendation on both the annexation and zoning to the ~~c~~City ~~c~~Council so that the ~~c~~City ~~c~~Council can, if it desires, act on the annexation with input from the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission regarding appropriate zoning. Zoning may not be placed on any property until the annexation ordinance has officially been adopted.

(d) ~~Refer to~~See ~~c~~Chapter 110~~, and the extraterritorial jurisdiction (ETJ) policy~~ for platting requirements within the City's ETJ.

Sec. 130-39 Classification of new and unlisted uses.

It is recognized that new types of land use will develop and forms of land use not presently anticipated may seek to locate in the City. These may not be specified as a permitted use in any zoning district. 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:

(a) The ~~p~~Planning and Development ~~s~~Services Department ~~division~~ shall refer the question concerning any new or unlisted use to the ~~p~~Planning and ~~z~~Zoning ~~c~~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,

anticipated employment, and transportation requirements likely to be generated and the general requirements for public utilities such as water and sanitary sewer.

(b) The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use is most similar and should be permitted.

(c) The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall forward its findings and recommendations to the ~~c~~City ~~c~~Council as to the classification proposed for any new or unlisted use. The ~~c~~City ~~c~~Council shall by resolution approve the recommendation of the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. After such resolution, if a zoning change is required, the process specified in ~~section~~Sec. 130-42~~130-44~~ shall be followed.

(d) Standards for new and unlisted uses may be interpreted as those of a similar use. When determination of the minimum requirements cannot be readily ascertained, the same process outlined in Sec. 130-39(a), Sec. 130-39(b) and Sec. 130-39(c)~~subsections (1), (2), and (3) of this section~~ shall be followed for determination of the new standards.

130-40 Nonconforming uses and structures.

(a) Intent of provisions.

(1) Within the districts established by this chapter or amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this chapter was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which it is located. It is the intent of this chapter to permit such nonconforming uses and structures to continue, under regulations herein contained, until the same are removed.

(2) It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded or extended, and not be used as grounds for adding other structures or uses prohibited elsewhere in the same district except for any existing or approved municipal services support facilities.

(3) Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

(b) Nonconforming status.

Any use or structure which does not conform with the regulations of the zoning district in which it is located shall be deemed a nonconforming use or structure when:

(1) Such use or structure was in existence and lawfully operating at the time of the passage of the ordinance on February 12, 1990, and has since been in regular and continuous use;

(2) Such use or structure is a lawful use at the time of the adoption of any amendment to this chapter but by such amendment is placed in a district wherein such use is not otherwise permitted and has since been in regular and continuous use; or

(3) Such use or structure was in existence at the time of annexation to the City and has since been in regular and continuous use.

(c) Continuing lawful use of property and existence of structures.

(1) The lawful use of land or lawful existence of structures at the time of the passage of this chapter, although such do not conform to the provisions hereof, may be continued; but if said nonconforming use or structure is discontinued or abandoned, any future use of said premises

shall be in conformity with the provisions of this chapter unless conformity is not in the public interest as determined by the ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment.

(2) A nonconforming use, when such nonconforming use of land or structure ceases to be used in such manner for a period of 12 months, shall not be resumed and proof of such event constitutes prima facie evidence of discontinuance or abandonment. Any nonconforming uses which do not involve a permanent type of structure or operation, including manufactured housing, and which are moved from the premises shall be considered to have been abandoned. ~~(See exception in section 130-41.)~~ Nonconforming uses which do involve a permanent type of structure or operation shall not be considered abandoned if one or more of the following conditions are met:

a. The property has been advertised for sale or lease and actively marketed;

b. The premises has been advertised for sale or lease and actively marketed;

c. All licenses, permits, or certifications required for operation have been kept current since the effective date of the ordinance from which this chapter is derived.

(3) No nonconforming use or structure may be expanded or increased beyond the lot or tract upon which such nonconforming use is located as of the effective date of the ordinance from which this chapter is derived except as provided in ~~section~~Sec. 130-40. These provisions apply to any owner or subsequent owner of a nonconforming use as authorized herein.

(4) In those districts where mobile/manufactured homes are considered nonconforming structures, but single-family detached dwellings are a permitted use, an owner of a nonconforming mobile/manufactured home may replace a nonconforming mobile home destroyed by fire, the elements, or other cause, with another mobile home of equal or less square footage.

(d) Changing nonconforming uses.

(1) Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

(2) Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a certificate of occupancy from the ~~c~~Chief ~~b~~Building ~~o~~Official.

(3) A nonconforming use may be changed to another nonconforming use provided that adverse impacts (such as more traffic, noise, vibration, etc.) are not increased.

(e) Extension of nonconforming uses.

A nonconforming use may be expanded by the Zoning ~~b~~Board of ~~a~~Adjustment in accordance with the following:

(1) A nonconforming use located within a structure may be extended throughout the structure.

(2) No structural alteration may be made on or in the building except those required by law to preserve such building in a structurally sound condition.

(3) The number of dwelling units or rooms in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units or rooms existing at the time said use became a nonconforming use.

(4) No nonconforming use within a structure may be extended to occupy any land outside the structure.

(5) No nonconforming use of land or structure shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the land became a nonconforming use, except to provide off-street loading or off-street parking space.

(f) Restoration of nonconforming structure.

(1) If a structure occupied by a nonconforming use is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this chapter. In the case of partial destruction of a nonconforming use structure not exceeding 60% ~~percent~~ of its total appraised value as determined by the Brazos County Central Appraisal District, reconstruction will be permitted, but the existing square footage or function of the nonconforming use cannot be expanded.

(2) If a structure is nonconforming but the use is conforming to the respective zoning district and the structure is completely destroyed, the structure shall be rebuilt to conform to the provisions of the zoning district wherein it is located.

(3) A structure housing a nonconforming use may be remodeled as long as the size (square footage) of the structure is not increased.

(g) Completion of structures.

Nothing herein contained shall require any change in the plans, construction, or designated use of:

(1) A building or structure for which a building permit has been issued or a site plan approved prior to the effective date of these zoning regulations; or

(2) A building or structure for which a substantially complete application for a building permit was accepted by the ~~c~~Chief ~~b~~Building ~~o~~Official on or before the effective date of these regulations;

(3) provided, however that such building permit shall comply with all applicable ordinances of the City in effect on the date such application was filed and the building permit is issued within 120 days of the effective date of these regulations.

(h) Licensed mobile home parks.

Mobile home parks licensed according to Chapter 74~~-~~, prior to the adoption of the ordinance from which this chapter is derived shall be allowed to continue as long as the site area and number of units approved in said license is not exceeded. Lapse of said license shall be considered as abandonment of ~~a~~ the nonconforming use. ~~as stated in subsection (b) and (c) of this section~~ .

130-41 Zoning ~~b~~Board of ~~a~~Adjustment.

(a) Creation.

There is created a board known as the ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment (ZBA) of the City.

(b) Members and terms of office.

The ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment shall consist of ~~five~~ 5 regular members and ~~two~~ 2 alternate members who shall be appointed by the ~~c~~City ~~c~~Council in accordance with V.T.C.A., Local Government Code §§211.008--211.011, as amended, to serve for ~~two~~ 2 years staggered terms or until their successors are duly appointed.

(c) Appointment of members.

The ~~c~~City ~~c~~Council shall appoint members to the ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment as specified by the ~~c~~City ~~c~~Council adopted policy on the board and commission appointments.

(d) Authority ~~of board~~.

The ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment shall have the authority, subject to the standards established in V.T.C.A., Local Government Code §§211.001--211.011, and those established herein, to exercise the following powers and perform the following duties:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.

(2) To permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use or building, on the lot or tract occupied by such a building, in accordance with the standards in ~~section~~Sec. 130-40~~ of these regulations~~, provided such activity does not prevent the return of such property to a conforming use.

(3) To authorize in specific cases a variance from the requirements of the ~~z~~Zoning ~~o~~Ordinance, subject to limitation set forth in the ordinance, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

(e) Limitations on authority of Zoning ~~b~~Board of Adjustment.

(1) The Zoning ~~b~~Board of Adjustment may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.

(2) The Zoning ~~b~~Board of Adjustment shall have no power to grant or modify conditional use permits authorized under ~~section~~Sec. 130-33~~ of these regulations~~.

(3) The Zoning ~~b~~Board of Adjustment shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission or the ~~c~~City ~~c~~Council, the Zoning ~~b~~Board of Adjustment shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.

(4) The Zoning ~~b~~Board of Adjustment shall not grant a request for any variance to any parcel of property or portion thereof upon which a site plan, preliminary plat, or final plat, where required, has not been finally acted upon by both the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission and, where required, by the ~~c~~City ~~c~~Council.

(f) Variances.

(1) The ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment may grant a variance from a requirement of the ~~z~~Zoning ~~o~~Ordinance, if it makes written findings that:

a. The requirement does not allow for a reasonable use of the property;

b. The hardship for which the variance is requested is owing to a special condition inherent in the property itself, such as restricted area, shape, topography or physical features;

c. The special condition is unique to this property and is not generally characteristic of other parcels of land in the area; and

d. Development under the variance does not:

1. Alter the character of the area adjacent to the property;

2. Impair the use of adjacent property that is developed in compliance with the City requirements; or

3. Impair the purposes of the regulations of the zoning district in which the property is located.

(2) A variance may not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor may a variance be granted to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

(3) The applicant bears the burden of proof in establishing the facts justifying a variance.

(g) Procedures.

(1) Application and fee.
An application for action, by the ~~board of adjustment~~Zoning Board of Adjustment, other than an appeal, shall be in writing using forms provided by the city and shall be accompanied by a fee established by the City to cover administrative processing costs.

(2) Notice and hearing.
The ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment shall hold a public hearing on each application for action or appeal. This public hearing shall be held no later than the second scheduled meeting after the application is filed in accordance with the rules adopted by the Zoning ~~b~~Board of Adjustment and the provisions of this chapter. Notice of a public hearing shall be provided to all property owners within 200 feet of the affected property ~~ten~~ 10 days prior to the public hearing.

(3) Appeals.

a. An appeal may be taken from the decision of an administrative zoning official by an applicant for the permit on which the decision is rendered, by any person or persons aggrieved by the decision or by any officer, department, Zoning ~~b~~Board of Adjustment or bureau of the municipality affected by the decision.

b. The appellant must file with the Zoning ~~b~~Board of Adjustment and the official from whom the appeal is taken a written notice of appeal specifying the grounds for the appeal within 15 days after the decision has been rendered as determined by the rules of the Zoning ~~b~~Board of Adjustment. The officer from whom the appeal is taken shall forthwith transmit to the Zoning ~~b~~Board of Adjustment all papers constituting the record of the action that is appealed.

c. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the Zoning ~~b~~Board of Adjustment facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the Zoning ~~b~~Board of Adjustment or a court of record on application, after notice to the official, if due cause is shown.

d. The appellant party may appear at the appeal hearing in person or by agent or attorney.

e. The Zoning ~~b~~Board of Adjustment shall decide the appeal within a reasonable time. The Zoning ~~b~~Board of Adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and make the correct order, requirement, decision, or determination and for such purpose the Zoning ~~b~~Board of Adjustment has the same authority as the official.

(4) Vote required for Zoning ~~b~~Board of Adjustment decisions.
The concurring vote of four members of the Zoning ~~b~~Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these zoning regulations, or to effect any variance to the zoning regulations granted by the Zoning ~~b~~Board of Adjustment.

(5) Judicial review.
Any person or persons, jointly or severally, aggrieved by a decision of the ~~z~~Zoning ~~b~~Board of ~~a~~Adjustment, or any taxpayer, or any officer, department, Zoning ~~b~~Board of Adjustment, or bureau of the City may present to a district court, county court, or county court at law a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented within ~~ten~~ 10 days after the date the decision is filed in the Zoning ~~b~~Board of Adjustment's office.

Sec. 130-42 Changes and amendments to ~~z~~Zoning ~~o~~Ordinance, districts and administrative procedures.

(a) Declaration of policy.
The City declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

(1) To correct any error in the regulations or map;

(2) To recognize changed or changing conditions or circumstances in a particular locality or area;

(3) To recognize changes in technology, the style of living, or manner of conducting business.

(b) Authority to amend the ~~z~~Zoning ~~o~~Ordinance.
The ~~c~~City ~~c~~Council may from time-to-time, after receiving a final report thereon by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts. Any ordinance may be ordered for consideration by the ~~c~~City ~~c~~Council, be initiated by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, or be requested by the owner of real property, or the authorized representative of an owner of real property. In no case shall the ~~c~~City ~~c~~Council act upon any zoning request prior to action by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission. Consideration for a change in any district boundary line or specific zoning regulation may be initiated only with written consent of the property owner, or by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission or the ~~c~~City ~~c~~Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit proof of ownership.

(c) Residential - Neighborhood Conservation District Rezoning.

(1) Property owners may make application to the ~~c~~City ~~c~~Council for a City initiated rezoning of an entire platted residential subdivision or a single phase/section of a platted residential subdivision presently zoned Residential District-7000 (RD-7) or Residential District-5000 (RD-5) to Residential - Neighborhood Conservation District (R-NC).

(2) An application for a City initiated rezoning of an entire platted residential subdivision or a single phase/section of a platted residential subdivision from Residential District-7000 (RD-7000) or Residential District-5000 (RD-5000) to a Residential - Neighborhood Conservation

District (R-NC) must include the Residential - Neighborhood Conservation District Rezoning Petition Verification Response Form. This petition must be sent via regular mail to 100% ~~percent~~ of the lot of record owners listed within Brazos County Appraisal District Tax Rolls. All returned petition verification response forms shall contain signatures that shall be notarized, regardless of whether the vote cast is a yes or no. No signature affixed to the petition more than 180 days prior to the date of filing the petition with the C~~c~~ity S~~s~~ecretary shall be counted. Each lot of record shall have one vote regardless of the number of owners listed in the Brazos County Appraisal District Tax Rolls. The agent representing the platted subdivision or platted phase of a subdivision shall file a notarized affidavit to attest all petition verification response forms were mailed to the last known owner(s) as listed in the Brazos County Appraisal District Tax Rolls. The ~~r~~Residential - ~~n~~Neighborhood ~~c~~Conservation ~~d~~District rezoning petition verification response form and affidavit form may be obtained at the ~~office of~~ Planning and ~~d~~Development S~~s~~ervices Department.

(3) At least 51% ~~percent~~ of the land area in the proposed ~~r~~Residential - ~~n~~Neighborhood ~~c~~Conservation ~~d~~District must be presently improved as identified by the Brazos County Appraisal District (BCAD), and an affirmative vote of the owners of at least 66% ~~percent~~ of the lots of record within the platted subdivision or within a single phase/section of a platted subdivision shall be required for the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission to take up consideration of the proposed rezoning.

(4) The completed rezoning application and petition verification response forms shall be submitted to the C~~c~~ity S~~s~~ecretary. The C~~c~~ity S~~s~~ecretary shall examine the rezoning application and ascertain whether it is sufficient under ~~sections 130-41(c)(2) and (3)~~ Sec. 130-42(c)(2) and Sec. 130-42(c)(3) and shall attach to the petition verification response forms the C~~c~~ity S~~s~~ecretary's certificate showing the result of the examination. If the certificate shows the rezoning application is insufficient, the rezoning application may be amended within ~~ten~~ 10 days from the date of the certificate, after which time the C~~c~~ity S~~s~~ecretary shall examine the amended rezoning application. If the C~~c~~ity S~~s~~ecretary's certificate shows the amended rezoning application to be insufficient, it shall be returned to the person filing and a new petition for the same subdivision or phase/section shall not be submitted for a period of 180 days. If the rezoning application is found to be sufficient, the C~~c~~ity S~~s~~ecretary shall submit the rezoning application to ~~p~~Planning and ~~z~~Zoning ~~c~~Commission without delay.

(5) If rezoned to a ~~r~~Residential - ~~n~~Neighborhood ~~c~~Conservation ~~d~~District, the permitted uses of the property shall be determined and controlled by the use regulations set forth for in ~~section~~Sec. 130-31~~, Residential Neighborhood Conservation District (R-NC) classification~~.

(d) Application for zoning or amendment.

Each application for zoning or for an amendment or change to the existing provisions of this chapter shall be made in writing on a form suitable to the ~~p~~Planning and Development ~~s~~Services ~~division~~ Department and shall be filed with the City and shall be accompanied by payment of the appropriate fee to be charged by the City for administering the zoning application.

(e) Public hearing prior to making report.

Prior to making its report to the ~~c~~City ~~c~~Council regarding a proposed zoning change, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall hold at least one public hearing on each application. Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within 200 feet of any property affected thereby, within not less than ~~ten~~ 10 days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail. Although a public hearing must be held by the commission to consider amendments to the text of

this chapter which do not change zoning district boundaries, published notice or written notification to individual property owners is not required prior to such hearing.

(f) Failure to appear.

Failure of the applicant or his or her representative to appear before the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission or the ~~c~~City ~~c~~Council for more than one hearing without an approved delay shall constitute sufficient grounds for the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission or the ~~c~~City ~~c~~Council to terminate or deny the application.

(g) Commission consideration and report.

The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission, after a public hearing is held to receive input from interested parties and closed, shall prepare its report and recommendations on the proposed change stating its findings, and evaluation. The ~~p~~Planning and ~~z~~Zoning ~~c~~Commission may defer its report for not more than 90 days from the time it is posted on the agenda until it has had opportunity to consider any other proposed changes which may have a direct bearing thereon. In making its determination, the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall consider the following factors:

(1) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.

(2) Whether there is availability of water, wastewater, storm water, and transportation facilities generally suitable and adequate for the proposed use.

(3) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

(4) The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

(5) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.

(6) Any other factors which will substantially affect the health, safety, morals, or general welfare.

(h) Reasons for denial

If the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission or the ~~c~~City ~~c~~Council deny a zoning request, it shall offer reasons to the applicant for the denial. The ~~c~~City ~~c~~Council shall not hold a public hearing until it receives a final report and action from the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission unless a joint public hearing is held.

(i) City Council ~~council~~ consideration.

(1) Proposal recommended for approval by the commission.
Every proposal which is recommended for approval by the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission shall be automatically forwarded to the ~~c~~City ~~c~~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.

(2) Proposal recommended for denial by the commission.
~~When the p~~Planning and ~~z~~Zoning ~~c~~Commission determines that a proposal should be denied, it shall so report and recommend to the ~~c~~City ~~c~~Council and notify the applicant. If the commission recommends denial, the request shall not be forwarded to the ~~c~~City ~~c~~Council unless the applicant so requests or the request is sent for review by the commission by simple

majority vote. A request which has received a recommendation for denial from the ~~p~~Planning and ~~z~~Zoning ~~c~~Commission or has been denied by the ~~c~~City ~~c~~Council may be resubmitted at any time for reconsideration by the City (a new filing fee must accompany the request). The ~~c~~City ~~c~~Council may deny any request with prejudice. If a request has been denied with prejudice, the same or similar request may not be resubmitted to the City for ~~six~~ 6 months from the original date of denial.

(3) City Council ~~council~~ hearing and notice.
Notice of the ~~c~~City ~~c~~Council hearing shall be given in the official newspaper of the City, stating the time and place of such hearing, at least 15 days prior to the date of public hearing.

(4) Three-fourths vote.
In the event a protest to a proposed change to a zoning regulation or district boundary is filed with the C~~c~~ity S~~s~~ecretary, duly signed and acknowledged, by the owners of either:

a. ~~Twenty~~ 20%~~percent~~ or more of the area of the lots or land covered by the proposed change; or

b. By ~~twenty~~ 20%~~percent~~ or more of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from such area, such amendments shall not become effective except by affirmative vote of three-fourths of the ~~c~~City ~~c~~Council.

Note: In computing the percentage of land area under this subsection, the area of streets and alleys shall be included. In measuring the distance under ~~subsection (i)(4)b. of this section~~Sec. 130-42(i)(4)b, for lots opposite the subject property, the distance shall run from the street frontage of such opposite lots.

(j) Final approval and ordinance adoption.
Upon approval of the zoning request by the ~~c~~City ~~c~~Council, the applicant shall submit a metes and bounds description of each zoning district to the City within 30 days for the preparation of the amending ordinance. The amending ordinance shall be approved within ~~six~~ 6 months. If the amending ordinance is not approved within ~~six~~ 6 months, the zoning request, at the option of the ~~c~~City ~~c~~Council may be recalled for a new public hearing. The zoning change shall not be effective and official until the amending ordinance is signed by the mayor and the C~~c~~ity S~~s~~ecretary under authority of the ~~c~~City ~~c~~Council.

Sec. 130-43 Certificates of occupancy and compliance.

(a) Certificates of occupancy shall be required for any of the following.

(1) Occupancy and use of a building hereafter erected or structurally altered;

(2) Change in use of an existing building to a use of a different classification;

(3) Occupancy and use of vacant land, except agricultural use;

(4) Change in the use of land to a use of a different classification;

(5) Any change in the use of a nonconforming use.

(6) No such use, or change of use, shall take place until a certificate of occupancy has been issued by the ~~c~~Chief ~~b~~Building ~~o~~Official and approved by the ~~p~~Planning and Development ~~s~~Services Department.

(b) Procedure for new or altered buildings.

Written application for a certificate of occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building. ~~Said~~ The certificate of occupancy shall be issued within ~~ten~~10 days after a written request for the same has been made to ~~said~~ the ~~c~~Chief ~~b~~Building ~~o~~Official or his or her agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this chapter.

(c) Procedure for vacant land or a change in building use.

Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a nonconforming use to a conforming use, as herein provided, application for certificate of occupancy shall be made to ~~said~~ the ~~c~~Chief ~~b~~Building ~~o~~Official for review on forms available in the chief building inspector's office. If the proposed use is in conformity with the provisions of this chapter, the certificate of occupancy shall be issued within ~~ten~~10 days after the application for same has been made.

(d) Contents.

Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provision of the building and fire laws and ordinances. A record of all certificates of occupancy shall be kept on file in the office of the ~~c~~Chief ~~b~~Building ~~o~~Official or his or her agent and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.

(e) Temporary certificate.

Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the ~~c~~Chief ~~b~~Building ~~o~~Official for a period not exceeding ~~six~~ 6 months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the City relating to the use or occupancy of the premises or any other matter covered by this chapter.

(f) Nonconforming uses.

A record shall be required for all nonconforming uses of land or buildings created by adoption of the ordinance from which this chapter is derived. All known nonconforming uses created by this chapter shall be identified on a City map and filed in the ~~p~~Planning and Development ~~s~~Services Department~~division~~. No certificate of occupancy shall be granted for any property designated on this map until such use is reviewed and approved in accordance with ~~section~~Sec. 130-40.

Sec. 130-44 Preserving rights in pending litigation and violations under other existing ordinances.

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

Sec. 130-45 Penalty for violations.

Any person or corporation violating any of the provisions of this chapter shall, upon conviction, be fined any sum not exceeding $1,000.00 for each and every day that the provisions of this chapter are violated and each violation shall constitute a separate and distinct offense. In addition to the said penalty provided for, the right is hereby conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded, by a violation of the terms of the ordinance, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available by law and equity in the protection of the rights of such property owners.

Sec. 130-46 Validity.

If any section, paragraph, subdivision, clause, phrase, or provision of this chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this chapter as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

~~**Planned development districts.**~~
~~The planned development districts of the city approved in accordance with the provisions of this chapter in its original form, or by subsequent amendments thereto, shall be referenced on the zoning district map and shall be on kept file in the office of the city planner or his or her designee.~~

4.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

5.

That the Code of the City of Bryan, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

6.

That if any section, paragraph, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

7.

That it is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of the time, place and purpose of said meetings was given.

8.

It is the intention of the City Council that this ordinance shall become a part of the Bryan City Code and it may be renumbered and codified therein accordingly

9.

That a person who violates any section of this ordinance is guilty of a misdemeanor and upon conviction is punishable in accordance with Section 1-14 of the City of Bryan Code.

10.

That the City Secretary is directed to publish this ordinance in a newspaper of general circulation in the City of Bryan in compliance with the provisions of the City Charter, which publication shall be sufficient if it contains the title of this ordinance, the penalty provided therein for violation thereof, and the effective date of the ordinance.

11.

That this ordinance shall take effect from and after its final passage and publication as required by law. The effective date of this Ordinance will be _____.

PRESENTED AND GIVEN first reading the 4th day of August, 2015 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 25th day of August, 2015 by a vote of ___ yeses and ___ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

_____
Mary Lynne Stratta, City Secretary

CITY OF BRYAN:

_____
Jason P. Bienski, Mayor

APPROVED AS TO FORM:

_____
Janis K. Hampton, City Attorney

ORDINANCE NO._____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, REPEALING AND REPLACING CHAPTER 62, LAND AND SITE DEVELOPMENT AND CHAPTER 130, ZONING, CORRECTING INTERNAL CONFLICTS, INCONSISTENCIES, AMBIGUITIES, SCRIVENER'S ERRORS, FORMATTING MISTAKES AND OTHER TECHNICAL IRREGULARITIES OF A NON-SUBSTANTIVE NATURE, TO MAKE THE ORDINANCES EASIER TO USE, LESS PRONE TO MISINTERPRETATION AND CONFUSION, AND MORE LEGALLY DEFENSIBLE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING A PENALTY CLAUSE; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THIS ORDINANCE WAS PASSED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bryan has adopted Chapter 62, Land and Site Development, and Chapter 130, Zoning, of the City of Bryan Code of Ordinances; and

WHEREAS, the City Council recognizes the need from time to time to review said ordinances to identify and correct internal conflicts, inconsistencies, ambiguities, scrivener's errors, formatting mistakes and other technical irregularities of a non-substantive nature, to make the ordinances easier to use, less prone to misinterpretation and confusion, and more legally defensible; and

WHEREAS, the Bryan Planning and Zoning Commission during its May 7, 2015 regular meeting recommended that the proposed amendments to Chapters 62 and 130 be approved; and

WHEREAS, the City Council has held a public hearing on the proposed amendments for which notice was published at least fifteen days prior to the hearing date;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS:

1.

That the City Council finds and determines the foregoing recitals are true and correct and are incorporated herein.

2.

That the entire text of Chapter 62, Land and Site Development is hereby repealed and replaced to read as follows:

Chapter 62 – "Land and Site Development Ordinance"

Article I. "In General"

Sec. 62-1 General definitions.
The following words, terms and phrases, when used in this chapter or when used Chapter 130 (Zoning Ordinance), shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words and terms that are not expressly defined in this chapter or in

Chapter 130 have their ordinary dictionary meanings, based on the latest edition of Merriam-Webster's Unabridged Dictionary.

Access shall mean a way or means of approach to provide a vehicle or pedestrian a physical entrance and exit to a property.

Access aisle shall mean an accessible pedestrian space between elements, such as parking spaces, that provides clearances appropriate for use of the elements.

Accessible shall mean a site, building, facility, or portion thereof that can be approached, entered, and used by physically disabled people.

Accessible route shall mean a continuous unobstructed path connecting all accessible elements and spaces that can be negotiated by a severely disabled person using a wheelchair and that is also safe for and usable by people with other disabilities. Exterior accessible routes may include parking access aisles, curb ramps, walks, and ramps.

Aisle shall mean the area within a parking lot which allows vehicles access to parking spaces. The aisle serves as a travel way through the parking lot as well as a maneuvering area, which permits full and direct ingress and egress to parking spaces.

Barrier shall mean a device or treatment which controls the movement, circulation, separation or direction of vehicular traffic. Such treatments include but are not limited to wheel stops, end islands, and dividers.

Bay width shall mean a distance measured perpendicular to and from the front of a parking space, across the maneuver space, to the front of the opposite parking space.

Buildable area shall mean an area located within a lot, bounded by the front, side, and rear setback lines. The area may be further restricted by the placement of easements or special setbacks. Construction of the structures must be limited to this area.

Building. See "Structure."

Building height shall mean the vertical distance from the grade plane to the average height of the highest roof structure.

Building line. See "Setback line."

Corner clearance shall mean a distance measured from the edge of pavement of an intersecting street to the edge of pavement of the first driveway.

Curb return radius shall mean the radius defined by the arc section used in access apron design of an intersection or driveway at the curbline of the street.

Developer shall mean any person, business, or group required to submit a site plan in accordance herewith, or anyone who owns the site or is in control of the property.

Driveway shall mean a private roadway providing access for vehicles from public or private property to the adjacent public street.

Driveway separation shall mean a distance measured from the edge of pavement of a driveway, along the curbline, to the edge of pavement of the next driveway.

Duplex shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.

Dwelling unit shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.

Edge of pavement (EOP) shall mean the outermost edge of the pavement. For streets with curb and gutter, the outside edge of the curb is the edge of pavement. For streets without a curb, the edge of the

asphalt pavement is the edge of pavement. This should not be confused with the crushed rock base which will often extend beyond the asphalt pavement.

Encroachment shall mean part of a structure or building which extends into a setback area, easement or right-of-way.

Façade articulation shall mean the use of details to divide building faces into parts and add interest.

Full review shall mean review of a site plan by the Site Development Review Committee.

Glazing shall mean glass or plastic fitted into a wall or roof opening to provide light to interior spaces, predominantly windows or glass block.

Home occupation shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.

Joint access easement shall mean an easement creating a legal means by which two or more property owners and/or two or more properties may utilize one joint driveway for access. This easement shall be for public use but privately maintained.

Letter of encroachment shall mean a letter which serves as written evidence or which verifies that a building/structure encroachment was constructed prior to the effective date of the Comprehensive Zoning Ordinance (February 12, 1990) or prior to any subsequent ordinance amendments which affect the building setback area requirements.

Limited review shall mean review of a site plan when change of ownership, change of use, or change of tenant of an existing structure occurs. Limited review does not apply to single-family residential.

Liner stores shall mean commercial structures placed at the edge of a shopping center to enhance quality of development and of adjacent street face.

Lot, corner shall mean a lot or parcel of land abutting two or more streets at their intersection or two parts of the same street forming an interior angle of less than 135 degrees.

Lot coverage shall mean the impervious area of a lot covered; including but not limited to the area covered by parking spaces, driveways, sidewalks, rocked areas, and equipment pads located thereon.

Lot depth shall have the meaning ascribed in Chapter 110.

Lot, double-frontage shall mean a lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

Lot, flag shall mean a lot having access to a street by means of a parcel of land having a depth greater than its frontage, and having a width less than the minimum required lot width, but not less than 25 feet in a residential district and 50 feet in a nonresidential district. The maximum length of the "pole" of the flag lot shall be 110 feet.

Lot, front or frontage shall mean that portion of a tract of land which is the principal side of a property and which abuts on a public street to which it has direct access.

Lot, improved shall mean a lot upon which a building can be constructed. This requires that the lot have frontage on, or access to, an improved street and all utilities (such as water, sewer, and electric).

Lot, interior shall mean a lot other than a corner lot.

Lot lines or property lines shall mean the lines bounding a lot.

Lot of record shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk of the county or a lot subdivided by metes and bounds description prior to May 1967.

Lot size shall mean the total area, measured on a horizontal plane, included within lot lines.

Lot, substandard shall mean a parcel of land that does not meet all City standards.

Lot width shall have the meaning ascribed in Chapter 110.

Main structure shall mean a structure in which the principal use of the lot on which it is situated is conducted. In a residential district, any dwelling shall be deemed a main structure on the lot on which it is situated.

Marginal access street shall mean minor street which is parallel with and adjacent to arterial and collector streets and highways and which provides access to abutting properties and protection from through traffic.

Multifamily (residential) development or dwelling shall mean a structure or grouping of structures where each structure contains 3 or more dwelling units intended for human habitation, not including hotels, motels and similar lodging uses. Although multifamily developments are for residential use, due to the higher intensity of the sites, multifamily developments shall follow all requirements applicable to nonresidential developments and shall be submitted for a full review by the Site Development Review Committee.

On-site renewable energy shall mean the use of energy sources that cannot be easily depleted to reduce energy reliance on fossil fuels; options include solar, wind, geothermal, low-impact hydro, biomass, and bio-gas strategies.

Nonresidential development shall mean all development except for that of single-family residential. This includes, but not limited to, construction or extension, change of use, repair, reconstruction or other improvement of a property which increases the gross square footage of any structure.

Pad site shall mean a freestanding parcel at the edge of a shopping center, generally leased or sold to financial institutions, fast-food outlets, or chain restaurants; also called an outparcel.

Parking bay shall mean that portion of a parking area containing at least one row of parking spaces, but not more than two rows and the associated maneuver space for entering and leaving the spaces.

Parking space shall mean a space in a parking area marked and reserved for the parking of a motorized vehicle.

Patio home shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.

Principal street shall mean the roadway with the highest level of priority adjacent to the lot or site.

Public easement shall mean an area of land reserved for the use of the public by the grantor, in which to install and maintain utility lines, drainage ditches or channel, or for other City or public services; the ownership or title to the land encompassed by the easement being retained by the owner. No building or part of a building or other permanent structure may be located within the limits of the easement.

Publicly visible façade shall mean a building façade visible from a public right-of-way, not including alleys or other public rights-of-way used for utilitarian purposes only. Building facades adjoining other buildings (attached to more than 50% of the sidewall) are exempt.

Redevelopment shall mean any change of use, change of ownership, change of tenant, voluntary improvement, substantial reconstruction, conversion, structural alteration, relocation, or enlargement of any structure and/or site.

Right-of-way shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.

SDRC shall mean Site Development Review Committee; consisting of representatives from the City charged with reviewing site plans.

SDRC Chair shall mean the officer or duly authorized representative, designated by the City Manager, charged with the administration and enforcement of this article.

Setback shall mean the distance between the outside wall of the main building and any lot line. The setback may exclude uncovered walks, chimneys, bay windows, and roof overhangs up to 18 inches in width.

> *Front setback* shall mean the line extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.
>
> *Rear setback* shall mean the line extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.
>
> *Side setback* shall mean the line between the building and side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

Setback area shall mean area of a lot defined by and contained within the property lines and the setback lines.

Setback lines shall mean a line parallel with the property line at a specific distance there from defining the minimum distance from the property line that a structure may be erected.

Sight distance triangle shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.

Single-family detached dwelling shall have the meaning assigned in Sec. 130-3 of the Zoning Ordinance.

Site shall mean land upon which constructions, expansions, reconstructions or other improvements are to be done.

Site plan shall mean the development plan for one or more proposed lots that shows all information that reasonably may be required in order that an informed decision can be made by the approving authority.

Solar Reflectance Index shall mean measurement of a material's ability to reflect (or "reject") heat; the higher the measurement, the less heat that is absorbed by the material.

Structure shall mean any manmade construction either built or moved onto a site, affixed to the ground, and which is used to shelter, enclose, or support persons or moveable property. A fence requiring footings or a foundation is considered a structure. Driveways, patio slabs, walkways, and fences 6 feet tall or less shall not be considered as structures.

Sustainable roof shall mean a roof that utilizes vegetation, a rainwater collection system, or reduces heat transmittance in order to decrease the amount of energy needed to heat and cool its building and possibly other buildings.

Throat depth shall mean a distance measured from the edge of pavement of the street to the first point of conflict.

Townhouse shall mean a single-family dwelling in a row of at least 3 such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

Vehicle lay of hose (VLH) shall mean the distance of hose as it lays off the fire truck, from the hydrant to within 100 feet of the furthest point of the building. The total distance shall include the use of public right-of-way, approved fire lanes, and/or drive accessways. In no case shall the VLH be measured across grass, wooded or landscaped areas, over curbs, through fences, ditches or across paved areas that are not engineered for fire apparatus.

Vicinity map shall mean a map illustrating the location of a site within the City, not necessarily to scale.

Visible Transmittance shall mean measurement of how much light comes through glazing, or how transparent the glazing is; the higher the measurement, the more light a material transmits from one side to the other.

Zero lot line shall mean the location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

Sections 62-2--62-22. Reserved.

Article II. "Single-Family Residential Development"

Sec. 62-23 Scope and purpose.

(a) This article establishes the submittal requirements by which residential site plans will be reviewed by the City.

(b) The purpose is to ensure the technical, nonconflicting compliance with all of the laws and ordinances of the City so as to protect the health, safety, and welfare of its citizens.

(c) The SDRC Chair reserves the right to require a residential site plan to go before the Site Development Review Committee for review. All applications for duplexes, townhouses, and patio homes will be reviewed by the Site Development Review Committee. Due to the higher intensity of the site, all multifamily development site plans shall follow the requirements outlined in nonresidential development.

Sec. 62-24 Form and content.

Residential site plan applications must contain the following:

(a) Date of application;

(b) Property street address;

(c) Legal description of the property (subdivision, phase, lot, block);

(d) Date of manufactured home, if applicable;

(e) Zoning of property;

(f) North arrow;

(g) Scale of drawing (or dimensions);

(h) Property lines (with lot dimensions);

(i) Adjoining streets and/or alleys;

(j) Size, location and type of any easements;

(k) Location of utility poles, guy wires, sanitary sewer manholes, public mains, fire hydrants, or any other significant feature or obstructions on the property;

(l) Outline of all structures using a dashed line to indicate roof line (label existing or proposed);

(m) Area in square feet of all structures;

(n) Number of stories on structures;

(o) Building setback lines;

(p) Location of all paved areas including driveways, curbs, sidewalks, patios;

(q) Driveway construction material (asphalt or concrete);

(r) Existing and proposed fences (including height and type);

(s) Existing creeks, culverts, retaining walls or other drainage features on the property; or adjacent property, which may be affected by construction;

(t) Completed checklist.

Sections 62-25—62-51. Reserved.

Article III. "Nonresidential and Multifamily Development"

Division 1. "Generally"

Sec. 62-52 Scope and purpose.

(a) This article establishes the process by which site development proposals will be reviewed by the Site Development Review Committee. It defines the submittal and content requirements for all nonresidential and multifamily site plan review.

(b) The purpose is to ensure the technical, nonconflicting compliance with all of the laws and ordinances of the City so as to protect the health, safety, and welfare of its citizens.

(c) If all access and construction-related permits necessary for completion of any site development plan have not been released within 12 months of the plan approval, then the site development plan shall become null and void. It shall be incumbent upon the Planning and Development Services Department staff and other Site Development Review Committee members to make all inspections and certifications necessary to ensure that development occurs in accordance with the approved site plan.

Sections 62-52—62-77. Reserved.

Division 2. "Administration"

Sec. 62-78 Site Development Review Committee--Purpose.

The Site Development Review Committee shall be organized to generally ensure compliance by site owners with all applicable codes, regulations, laws, ordinances and plans and to coordinate examination of development proposals to ensure that all City requirements, established by ordinance, resolution or policy, have been met without conflict. The Site Development Review Committee shall have all the power and duties specifically provided for herein.

Sec. 62-79 Same--Organization and membership.

The Site Development Review Committee shall consist of, but not be limited to, the following:

(a) Planning and Development Services;

(b) Engineering/Building Services;

(c) Environmental Services;

(d) Fire Department;

(e) Parks and Recreation;

(f) Police Department;

(g) Solid Waste Group;

(h) Transportation/Streets and Drainage Services;

(i) Water Services;

(j) Bryan Texas Utilities.

Sec. 62-80 Same--Powers and duties.

(a) The Site Development Review Committee shall determine from data submitted whether or not site plans meet the requirements of codes, regulations, and ordinances.

(b) The Site Development Review Committee, after review of the site plan, shall inform the owner in writing of any technical compliance problems in the plan. Compliance and enforcement shall be as provided in the particular code, regulation, or ordinance violated.

Sec. 62-81 Site development plan required.
Site plans to be reviewed by the Site Development Review Committee will apply to all types of nonresidential and multifamily development.

Sec. 62-82 Administrative authority for modification of application requirements.

When justified in special circumstances, the SDRC Chair, or his or her designee, is authorized to modify the content or review procedures for applications and associated documents required by this article.

Sections 62-83—62-107. Reserved.

Division 3. Site Development Requirements

Sec. 62-108 Approval requirements.

(a) The developer shall comply with all applicable requirements and regulations.

(b) Site plans may not be approved on unplatted property except where a structure or use exists on an unplatted parcel.

(c) All improvements shown on an approved site plan must be completed prior to issuance of the certificate of occupancy. The SDRC Chair shall coordinate all information dissemination.

(d) A certificate of occupancy may be granted for a partial development if the partial development is consistent with phasing shown on an approved site plan.

(e) The site plan must conform to any recorded plat or filed master plan for that same property or subdivision of which it is a part.

(f) Fees for site plan applications shall be as set by the City Council by separate resolution. Said resolution is incorporated herein by reference as though reproduced herein verbatim. Fees are due and payable at time of application and are nonrefundable.

(g) An appeal to any decision made by the SDRC Chair and/or the Site Development Review Committee may be made to the Planning and Zoning Commission. Application for appeal shall be made in writing with the Planning and Development Services Department no less than 10 working days after the date the Site Development Review Committee meets.

Sec. 62-109 Application and processing of full review site plans.

The applicant shall submit 15 copies of the site plan to the Planning and Development Services Department. If the submittal is in the City's ETJ, 20 copies will be required. Incomplete plans shall not be accepted. The copies will be forwarded to the Site Development Review Committee for review.

Sec. 62-110 Application and processing of limited review site plans.

The applicant shall submit a completed application indicating what type of change is occurring. The SDRC Chair will review the application and determine what site improvements shall be required. If improvements are necessary, one copy of a site plan may be required. Upon review, the SDRC Chair may forward the application to the Site Development Review Committee. At such time, 15 copies of the site plan will be required.

Sec. 62-111 Redevelopment.

In the event a site undergoes a change of use, change of ownership, change of tenant, voluntary improvement, substantial reconstruction, conversion, structural alteration, relocation, or enlargement, the SDRC Chair or Site Development Review Committee may require the site to comply with current ordinances.

Sec. 62-112 Form and content.

Site plans submitted must show the following items. All drawings shall be to scale, clear and complete to obtain site plan approval.

(a) The site plan shall not exceed 24 inches by 36 inches nor be less than 8 1/2 inches by 11 inches. The site plan shall be drafted at an appropriate engineering scale.

(b) Property lines of the subject site and all adjoining parcels, platted or unplatted. Platted and unplatted parcels shall be identified with the legal description and the owner's name.

(c) Boundaries of the property with dimensions, and with building setback lines on all sides.

(d) Existing and proposed streets, alleys, lots, reservations, public and private easements and areas dedicated to public use. Easements shall be labeled as to type and volume and page as applicable. In addition, the site plan shall show all driveways, rights-of-way, and street intersections that are adjacent to or directly across from the subject site.

(e) The location and design of all means of vehicular access to and from the site onto public rights-of-way, indicating the location and size of all driveways (including those on the adjacent property and the opposite side of the street), curb return radii, curb cuts and location and size of sidewalks and ambulatory ramps when and where required. For any development abutting frontage roads, all entrance and exit ramps shall be shown on the vicinity map.

(f) Location of existing and proposed buildings-number of stories, gross square footage of building; solid line indicating slab location and dashed lines indicating line of roof overhangs; AC unit pads and covered entries; retaining walls, fences, culverts, bridges, roadways, etc. The structures to be removed or abandoned shall be shown with dotted lines.

(g) Location of existing and proposed storm drainage structures, storm sewers, grates, inlets, detention ponds, etc., with pipe sizes, grades and direction of flow and associated drainage easements, if any.

(h) Limits of existing flood hazard areas within and adjacent to the property, accurately showing the limits of building encroachments and earth fill within this area, with 100-year water surface elevations and proposed finished floor elevations denoted. For any encroachment of buildings or fill in the flood hazard area, the developer must have previously met the requirements set forth in Chapter 46.

(i) Location of existing and proposed utilities (water, sanitary sewer, cable television, gas, electric and telephone) with service sizes, tap and meter locations, service types, grades and direction of flow. Also, related easements that will accommodate more than one utility shall be shown and described.

(j) Location of power poles, guy wires, pad mount transformers, and other major electrical equipment.

(k) Location of existing and proposed fire hydrants and the vehicle lay-of-hose distance.

(l) Location of existing and proposed contour lines with spot elevations for proposed top-of-curb and parking lot slabs. The City Engineer will determine the extent to which this information will be shown in accordance with Chapter 46.

(m) Location and screening or other description to indicate control and handling of solid waste. Indicate location and size of dumpster pad when dumpster is to be used.

(n) The planned use or uses of the site.

(o) The location and design of any off-street parking areas, including handicapped parking and loading areas, showing size and location of spaces, bays, isles, ramps and barriers in compliance with City standards and Texas Accessibility Standards. All customer parking areas must be clearly defined on the site plan and must be separate from areas to be used for display.

(p) Name of development, legal description of property, north arrow, scale, acreage name and address of record owner and engineer, draftsperson, architect and land planner.

(q) Both vicinity map and site plan shall be oriented with parallel north arrows. North arrow shall be oriented generally upward.

(r) Zoning designation as determined by the official zoning map.

(s) Landscaping plan as required by Article VII.

(t) Address of property as assigned by Planning and Development Services.

(u) Area designated for placement of debris during construction and wash out area for concrete trucks.

(v) Location and pavement type for temporary access for vehicles during construction. See Sec. 62-296 access standards.

(w) Location of all waste water pre-treatment devices and sampling well, as applicable.

(x) All existing and proposed signage, including height, square footage, setbacks, and landscaping.

(y) Additional information or engineering data, in such form and content as necessary, to determine that the site plan meets the standards of the City.

Sec. 62-113 Revision of site plan after approval.

No changes, erasures, modifications or revisions shall be made to any site plan after approval has been given by the Site Development Review Committee, unless said changes, erasures, modifications or revisions are first submitted to and approved by the Site Development Review Committee. Minor changes

correcting an error of measurements, acreage, dimensions or other similar situation may be approved by the SDRC Chair.

Sec. 62-114 Dedication and acceptance of public easements.

The Site Development Review Committee shall review all proposals for public easements not part of a recorded subdivision plat for access acceptability and need. The SDRC Chair is authorized to accept the easement for the City and will sign the document prior to filing.

Sections 62-115-62-139. Reserved.

Article IV. Building Setbacks and Lot Standards

Division 1. Generally

Sections 62-140--62-160. Reserved.

Division 2. "Lot Area, Height, and Setback Requirements"

Sec. 62-161 Standards.

The following standards apply:

Zoning Districts	**A-O**	**RD-7**	**RD-5**	**MF**	**C-1**	**C-2**	**DT-N, DT-S, DT-C**	**C-3**	**I**	**MU-1**	**MU-2**
Front setback (3), (6), (7)	50'	25'	25'	25'	25'	25'	(8)	25'	25'	25'	25'
Side setback adjacent to abutting property (3), (5), (6)	20'	7.5'	7.5'	7.5'	7.5'	7.5'	(8)	7.5'	7.5'	7.5'	7.5'
Side setback adjacent to an arterial street (3), (6)	25'	25'	25'	25'	25'	25'	(8)	25'	25'	25'	25'
Side setback adjacent to a collector or local street (3), (6)	25'	15'	15'	15'	15'	15'	(8)	15'	15'	15'	15'
Rear setback adjacent to an alley or abutting property (3),	25'	7.5'	7.5'	7.5'	7.5'	7.5'	(8)	7.5'	7.5'	7.5'	7.5'

Zoning Districts	A-O	RD-7	RD-5	MF	C-1	C-2	DT-N, DT-S, DT-C	C-3	I	MU-1	MU-2
(4), (5), (6), (10)											
Maximum lot coverage (6)	75% (1)	75% (1)	75% (1)	75% (1)	75% (1)	75% (1)	n/a	75% (1)	n/a	75% (1)	75% (1)
Minimum lot size (3), (6)	1 ac	7000 sf	5000 sf	5000 sf	10500 sf	20000 sf	n/a	20000 sf	n/a	5000 sf	7000 sf
Minimum lot width (3), (6), (9)	150'	70'	50'	50'	70'	100'	n/a	100'	100'	50'	50'
Minimum lot depth (3), (6)	300'	100'	100'	100'	150'	200'	n/a	200'	200'	100'	100'
Maximum height (6)	50'	35'	35'	35' (2)	35' (2)	35' (2)	None	35' (2)	35' (2)	35'	35' (2)

Notes:

(1) This requirement shall only apply to development that does not require a landscape plan review.
(2) Structures over 35 feet in height are permitted with the additional setback of one foot additional setback for each two feet in height over 35 feet.
(3) Refer to supplemental regulations in Sec. 62-167, Sec. 62-168 and Sec. 62-169 governing patio homes, townhouses and duplexes.
(4) Refer to rear setbacks in Sec. 62-165 for additional restrictions.
(5) Refer to Sec. 130-32 for side and rear buffer setbacks when it is determined that a zoning district sides or backs upon a noncompatible zoning district.
(6) Refer to Article IX for restrictions applicable to wireless telecommunication facilities.
(7) Front setbacks for lots along the end of cul-de-sacs shall be reduced to 20 feet.
(8) In the Downtown Districts, a minimum of 75% of all facades must be built up to the property line. Refer to Sec.130-16, Sec. 130-17, Sec. 130-18 and Sec. 130-19.
(9) The minimum width for a lot intended for a duplex is 70 feet.
(10) Any site with rear vehicular access shall be required to have a 20 foot rear setback for the vehicular entry point of any structure.

Sec. 62-162 Lot size and coverage.

(a) The minimum lot size for the various districts shall be in accordance with the provisions of this chapter. Any lot having less area than herein required which was an official lot of record prior to the adoption of Ordinance No. 756, may be used and no lot existing at the time of passage of the aforementioned ordinance shall be reduced in area below the minimum requirements set forth in the respective district.

(b) Only one main structure for single-family and duplex dwellings, with permitted accessory structures and/or dwellings, may be located upon a lot.

(c) Any permitted structure or structures constructed or moved onto any lot shall be confined to the buildable area of the lot.

(d) The maximum coverage of a lot by structures, and associated parking spaces, driveways, sidewalks, and equipment pads, etc., in each district shall not exceed the provisions listed in this article.

Sec. 62-163 Front setback.

(a) Only front setbacks established in this chapter shall be enforced. Front setbacks in excess of the minimum requirements of this chapter that are established by a plat approved by the Planning and Zoning Commission prior to the passage of Ordinance No. 756 shall not be subject to enforcement under the provisions of this chapter.

(b) Where a right-of-way line has been changed or established for the widening or opening of a street or thoroughfare which a lot abuts, then the front setback shall be measured from the new right-of-way line.

Sec. 62-164 Side setback.

(a) Only side setbacks established in this chapter shall be enforced. Side setbacks in excess of the minimum requirements of this chapter that are established by a plat approved by the Planning and Zoning Commission shall not be subject to enforcement under the provisions of this chapter.

(b) Where a right-of-way line has been changed or established for the widening or opening of a street or thoroughfare which a lot abuts, then the side setbacks shall be measured from the new right-of-way line.

Sec. 62-165 Rear setback.

(a) Only rear setbacks established in this chapter shall be enforced. Rear setbacks in excess of the minimum requirements of this chapter that are established by a plat approved by the Planning and Zoning Commission shall not be subject to enforcement under the provisions of this chapter.

(b) Where a right-of-way line has been changed or established for the widening or opening of a street or thoroughfare which a lot abuts, then the rear setback shall be measured from the new right-of-way line.

Sec. 62-166 Special height limitations.

The height limitations specified by this article do not apply to cooling towers, chimneys, vent stacks, water stand pipes and tanks, steeples, spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

Sec. 62-167 Patio home requirements.

(a) Building setbacks

(1) Front yard.
The minimum front yard setback shall be 20 feet. However, if all off-street parking is located in the rear of the dwelling unit and no curb cuts are provided on the front (street side), then the front yard setback may be reduced to 15 feet.

(2) Side yard.
The minimum side yard setback shall be 10 feet on lots siding on alleys. Patio homes must be constructed at least 10 feet from one side lot line. The minimum side yard setback on corner lots shall be 15 feet on minor streets, 20 feet on secondary or collector streets, and 25 feet on arterial streets.

(3) Rear yard.
The minimum rear yard setback shall be 20 feet. However, if off-street parking is located on the front side (street side), then the rear yard setback may be reduced to 10 feet.

(4) Common courts.
Where patio home lots and dwelling units are designed to face an open or common court rather than a public street, then said open or common court shall be at least 40 feet wide and no more than 200 feet long, measured from the public street to which said court must open. Said court may not include vehicular drives or parking area in front of dwelling units.

(b) Lots.

(1) Area.
Lot area shall be a minimum of 3,600 square feet.

(2) Width.
Lot width shall be a minimum of 36 feet.

(3) Depth.
Lot depth shall be a minimum of 100 feet.

(4) Corner lot.
Corner lots shall have a minimum width of 10 feet greater than interior lots.

(c) Other Regulations.

(1) All patio home developments shall have a direct access street to at least one dedicated and accessible public street having a right-of-way width of not less than 50 feet.

(2) Alleys, where used, shall have a minimum right-of-way of 20 feet and shall be developed with a concrete pavement in accordance with City construction standards.

(3) Utilities shall be provided for each dwelling unit on an individual basis.

(4) Standard fire hydrants shall be installed as part of the water distribution system per specifications of the State Department of Insurance and in accordance with City standards of construction.

(5) Any developer whose property has a common maintenance or ownership agreement shall be required to file all covenants and declarations governing those agreements at the time of platting. The final plat shall reflect the volume and page reference of such covenants and declarations filing.

Sec. 62-168 Townhouse requirements.

(a) Building setbacks.

(1) Front yard.
The minimum front yard setback shall be 20 feet. However, if all off-street parking is located in the rear of the dwelling unit and no curb cuts are provided on the front (street side), then the front yard setback may be reduced to 15 feet.

(2) Side yard.
The minimum side yard setback shall be 10 feet on lots siding on alleys. The minimum side yard setback on corner lots shall be 15 feet on minor streets, 20 feet on secondary and collector streets, and 25 feet on arterial streets. There shall be a minimum of 10 feet of unobstructed distance between any townhouse group consisting of contiguous dwelling units.

(3) Rear yard.
The minimum rear yard setback shall be 20 feet. However, if off-street parking is located on the front (street side), then the rear yard setback may be reduced to 10 feet.

(4) Common courts.
Where townhouse lots and dwelling units are designed to face an open or common court rather than upon a public street, then said open or common court shall be at least 40 feet wide and not more than 200 feet long, measured from the public street to which said court must open. Said court may not include vehicular drives or parking area in front of dwelling units.

(b) Lots.

(1) Area.
Lot area shall be a minimum of 2,500 square feet.

(2) Width.
Lot width shall be a minimum of 25 feet.

(3) Depth.
Lot depth shall be a minimum of 100 feet.

(4) Corner lot.
Corner lots shall have a minimum width of 10 feet greater than interior lots.

(c) Other Regulations

(1) Streets.
All townhouse subdivisions shall have a direct access street to at least one dedicated and accessible public street having a right-of-way width of not less than 50 feet. Alleys, where used, shall have a minimum right-of-way of 20 feet and shall be developed with a concrete pavement in accordance with City construction standards.

(2) Utilities.
Utilities shall be provided for each dwelling unit on an individual basis.

(3) Fire hydrants.
Standard fire hydrants shall be installed as part of the water distribution system per specifications of the State Department of Insurance and in accordance with City standards of construction.

(4) Covenants.
Any townhouse developer whose development has a common maintenance or ownership agreement shall be required to file all covenants and declarations governing those agreements at the time of platting. The final plat shall reflect the volume and page reference of such covenants and declarations filing.

(5) Townhouse groupings.
Townhouse groupings shall not exceed a length of more than 300 feet for any one group.

Sec. 62-169 Duplex requirements.

Duplexes can be constructed on the following lot configuration:

(a) Number of dwelling units.
Each lot shall be permitted to contain a maximum of 2 dwelling units.

(b) Area.
A lot with Lot area shall be a minimum of 7,000 square feet.

(c) Width.
Lot width shall be a minimum of 70 feet.

(d) Building setbacks.
Minimum building setbacks shall be as specified in this chapter for the district where the duplex is located.

Sec. 62-170 Corridor Overlay District lot and setback standards.

(a) Refer to Sec. 130-26, Sec. 130-27 and Sec. 130-28 for a complete list of development standards for the corridor overlays.

(b) The following standards apply to all Corridor Overlay Districts:

Corridor Overlays	**W. Villa Maria**	**FM 2818**	**FM 158**	**SH 47**	**South College**
Front setback	25' (1)	25' (1)	25' (1)	50' (1)	15' (1)
Side setback adjacent to abutting property	10'	10'	10'	15'	5'
Side setback adjacent to arterial street	25'	25'	25'	25'	15'
Side setback adjacent to collector or local street	25'	25'	25'	25'	10'
Rear setback adjacent to alley or abutting property	7.5'	7.5'	7.5'	15'	5'
Maximum lot coverage	See Zoning Designation	See Zoning Designation	See Zoning Designation	70%	N/A
Minimum lot size	20,000 sf	20,000 sf	20,000 sf	125,000 sf	5,000 sf
Minimum lot width	100'	100'	100'	250'	50'
Minimum lot depth	200' (2)	200' (2)	200' (2)	500'	100'
Maximum height	35' (3)	35' (3)	35' (3)	87.5' (3)	35' (3)

Notes:
(1) Parking will not be allowed in the setback.
(2) When fronting on the specified thoroughfare.
(3) Allowed with additional setback of one foot per two feet in height over 35 feet.

Sections 62-171--62-190. Reserved.

Division 3. "Variances"

Sec. 62-191 Granting.

(a) Planning and Zoning Commission authorization.
The Planning and Zoning Commission may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Planning and Zoning Commission shall prescribe only conditions that it deems necessary to or desirable in the public interest.

(b) Conditions.
No variance shall be granted unless the Planning and Zoning Commission finds that all of the following are met:

(1) That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200 foot radius);

(2) That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property; and

(3) That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

(c) Findings.
Such findings of the Planning and Zoning Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Planning and Zoning Commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Formal application.
All requested variances from this article shall be made in the form of a formal application prior to the date on which consideration is to be given by the Planning and Zoning Commission. Submittal shall be made in the Planning and Development Services Department.

Sec. 62-192 Appeals.

(a) Request by applicant.
If the applicant should disagree with the action of the Planning and Zoning Commission, he or she may appeal the decision to the City Council. The request for appeal must be made in writing within 10 days of the Planning and Zoning Commission's decision.

(b) City Council review.
Following the filing of a notice of appeal, the City Council shall, within 30 days, conduct a review of the decision of the Planning and Zoning Commission denying the requested variance. In its review of the decision of the Planning and Zoning Commission to deny the requested variance, the City Council shall utilize the criteria set forth in Sec. 62-191.

(c) Failure of City Council to act.
An application for a variance is automatically granted if the City Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sections 62-193--62-210. Reserved

Article V. "Encroachments"

Division 1. "Generally"

Sections 62-211--62-230. Reserved

Division 2. "Encroachments Constructed Prior to February 12, 1990"

Sec. 62-231 Letter of encroachment.

When it has been determined that a building/structure encroachment into an easement or right-of-way has occurred prior to the effective date of Chapter 130 (February 12, 1990) or prior to any subsequent ordinance amendments which affect the building setback line requirements, an owner or developer must make application for a letter to encroach at the Planning and Development Services Department.

(a) An owner/applicant shall submit a complete application for the letter of encroachment. Submittal shall be made to the Planning and Development Services Department. The application shall consist of:

(1) A signed application from which shall state the name, address, and telephone number of the owner, representative and registered surveyor who prepared the survey;

(2) Fifteen copies of a plot plan of property highlighting the encroachment with surveyor's signature and seal;

(3) Fifteen copies of the surveyor's field notes describing the encroachment with surveyor's signature and seal;

(4) The nonrefundable fee; and

(5) Any explanatory information that the owner wishes to provide.

(b) The City Planner, or his or her designee, shall review the data submitted, taking into consideration the requirements set forth in this article and all applicable ordinances and codes. The City Planner, or his or her designee, shall submit the data to the City's Site Development Review Committee for review and recommendation.

(c) A letter of encroachment will be signed by the City Planner, or his or her designee, after it has been determined that the applicable encroachments are not a detriment to the public health, safety or welfare of the citizens of the City. The signed letter will be officially recorded in the Planning and Development Services Department.

Sections 62-232--62-250. Reserved.

Division 3. "Use of Right-Of-Way"

Sec. 62-251 Special use license.

The City may grant a special use license for use of public right-of-way. The City, however, may cancel the license after the grantee has been given 90 days' notice. This provision shall not apply to right-of-way which is designated as county, state or federal highway or road.

(a) Types of uses.

Any one or more of the following activities, improvements, facilities or uses on public right-of-way may be granted a special use license:

(1) Aerial uses.

a. Temporary banners placed over streets; and

b. Other overhead encroachments not specified herein.

(2) Other uses.

a. Supportive or decorative columns, arches or other structural or decorative features;

b. Neighborhood gateway signs and landscaping;

c. Other surface encroachments not specified herein; and

d. Miscellaneous subsurface uses.

(3) Additional uses permitted in downtown.

a. An awning, canopy, marquee, or sign;

b. A sidewalk cafe containing removable chairs, planters or related materials.

(b) Exceptions.

Any use not covered under this subsection shall require a special use license to utilize the public right-of-way. The following activities, improvements, facilities or uses on public right-of-way shall not require a special use license as herein provided:

(1) City licensed or owned and maintained transit bus shelters and other related amenities for the convenience of the public;

(2) Trees and decorative landscaping, including landscaping, lighting, watering systems, and other appurtenances for the maintenance thereof, provided however, that when such landscaping is proposed on a public street having a right-of-way width of 60 feet or more, a landscaping plan shall be submitted to and approved by the Site Development Review Committee prior to its installation; and

(3) Uses such as but not limited to, newspaper racks, trash containers, and public utility facilities where the City has granted a franchise or lease permitting such use of the public right-of-way.

(c) Application.

The following shall be required of all applicants requesting a special use license:

(1) An application form completed and signed by the applicant and filed with the Planning and Development Services Department. The application shall set forth the following information:

a. The name, address and telephone number of the person or group seeking to use the public right-of-way;

b. The date the applicant proposes to use a public right-of-way;

c. A description of the proposed use of the public right-of-way; and

d. The nonrefundable filing fee.

(2) Fifteen copies of a plan of the area being requested for a special use license, showing all adjacent lot, easement, or other improvements contained on the public right-of-way and any and all improvements to be placed on such by the applicant; and

(3) A transmittal letter including specific information, special circumstances or conditions which apply to the request.

(d) Procedure.

(1) The submitted application and materials will be considered by the Site Development Review Committee which will approve or deny the request.

(2) In the event that the property on which the license is granted changes ownership, no certificate of occupancy may be granted until a new special use license is granted to the new owner or until the use is removed.

(e) Indemnification and insurance requirements.

(1) As a condition of the special use license, the licensee shall agree to indemnify, defend and hold harmless the City, its officers, agents, and employees from any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation for injury or death of any person, or for damage to any property, arising out of or in connection with licensee's use of public right-of-way.

(2) No special use license shall be granted unless the licensee files with the Planning and Development Services Department a certificate of liability insurance as hereinafter set forth. If the policy is not kept in full force and effect throughout the term of the license, the special use license shall automatically become void and the encroachment must be removed at that time.

(3) The insurance policy shall be issued by an insurance company authorized to do business in the state and shall be reviewed by the City Attorney. The policy shall provide in substance that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents or employees and the insurance shall meet or exceed the following minimum amounts: $250,000.00 for each person and $500,000.00 for each single occurrence for bodily injury or death and $100,000.00 for each single occurrence for injury to or destruction of property. The minimum amounts of insurance coverage may be increased by the City when it is in the best interest of the public.

(4) The policy of insurance shall name both the licensee and the City as insurers to the full amount of the policy limits. Such policy shall inure to the benefit of a person in whose favor a judgment may be rendered, but may contain a provision that suit against the insurer may not be brought until the licensee has failed to pay the final judgment of a court of competent jurisdiction against him or her.

(5) The policy shall contain a provision that it may not be canceled, revoked or annulled by the insurer without giving the City 10 days prior written notice. The licensee shall not surrender or release such policy without filing in lieu thereof another policy complying with the requirements of the section, or surrendering the special use license.

(6) Neither the City nor any officer or employee thereof shall be liable for the financial responsibility of any insurer, or in any manner become liable for any claim, act, or omission, relating to the licensee's use of the public right-of-way.

Sections 62-252--62-270. Reserved.

Article VI. "Access and Off-Street Parking"

Division 1. "Generally"

Sec. 62-271 Scope and purpose.

The purpose of the regulations in this article is to promote the public health, safety and general welfare of the City's residents and motorists. These regulations are designed to promote safe access to City streets, to reduce road accidents, to protect public investment in streets, to establish a safe and reasonable balance between street access and traffic mobility, and to assure safe and convenient access to and circulation of emergency and service vehicles within developments. Further, they establish minimum design standards for access and parking lots and minimum requirements for off-street parking.

Sections 62-272--62-293. Reserved.

Division 2. "Access, Parking and Circulation Provisions"

Sec. 62-294 Texas Department of Transportation permits required.

No person, firm or corporation shall construct, reconstruct, alter or repair, remove or replace any sidewalk, drive approach or any concrete work on any TxDOT right-of-way within the City without first obtaining an approved TxDOT permit. This permit shall be submitted to the City for initial review and forwarded to TxDOT for final review and approval.

Sec. 62-295 General.

(a) Compliance with ordinances, regulations and plans.
Any person seeking access to lands abutting the public street right-of-way shall comply with these regulations and:

(1) The City's Subdivision Ordinance.

(2) The City's Zoning Ordinance.

(3) Other applicable City regulations, codes or ordinances.

(4) Comprehensive plans or plan components.

(5) Texas Manual on Uniform Traffic Control Devices.

(6) City's design guideline standards.

(7) City's engineering standards, specifications, and details.

(b) Downtown Districts and home occupations.
These regulations shall not apply to developments located within the Downtown Districts nor to home occupations.

(c) Sidewalk requirement.
Any site plan requiring a full review by the Site Development Review Committee will require the design and construction of typical concrete sidewalks in accordance with City design standards on all existing and proposed curb and gutter streets adjacent to or included in the proposed site plan.

(d) Payment to special fund in lieu of sidewalk construction.

(1) A developer or property owner responsible for construction of a sidewalk under Sec. 62-295(c) may, on approval of the City Engineer, elect to meet that requirement in whole or in

part by a cash payment in lieu of actual construction on the ground. Such payments shall be made by submitting a cashier's check after the time of final plat approval but prior to the time the plat is recorded with the county clerk's office.

(2) The requirement shall be met by a fee in lieu of construction at a rate set at the current rate of construction per square foot or square yard of sidewalk built to adopted City standards at the time of application. Such rate shall be determined by the City surveying local construction bid prices, TxDOT bid prices and/or any other available bid price information. The bid price survey shall be conducted on an annual basis or more frequently as determined by City staff. The bid price survey shall be conducted by the Transportation Services Department manager or his/her designee. The results of the survey will be filed and made available for public access in the offices of the Planning and Development Services Department. Based on the findings of the bid price survey the fee rate shall be established by agreement between the Transportation Services Department manager and the City Engineer.

(3) Fee payments made under this section may be used only for construction of a new sidewalk or repair and maintenance of an existing sidewalk located within the same City Council single member district within which a majority of the land area of the development that required construction of a sidewalk under Sec. 62-295(c) is located.

(4) Fee payments made under this section may be used only for construction of a new sidewalk or repair and maintenance of an existing sidewalk located within the same City Council single member district within which a majority of the land area of the development that required construction of a sidewalk under Sec. 62-295(c) is located.

(e) Special fund created and right to refund.

(1) There is hereby established one special fund for the deposit of all sums paid in lieu of sidewalk construction under this section. These funds shall be established maintained and utilized by the City's Transportation Services Department.

(2) The City shall account for all sums paid in lieu of sidewalk construction under this section with reference to the individual plats or projects involved. Any funds paid for such purposes must be expended by the City within 10 years from the date received for development of a sidewalk as defined herein. Such funds shall be considered to be spent on a first in, first out basis. If not so expended, the developer of the property on the last day of such period shall be entitled to a pro rata refund of the sum paid. The developer must request entitlement within one (1) year of entitlement to refund, or such right to a refund shall be waived. Refunds shall include any accrued interest minus one percent administrative costs.

Sec. 62-296 Access standards.

(a) General principles.

(1) Nonresidential parking areas shall be designed to not allow backing of vehicles into a public street.

(2) Access facilities shall be located and designed with respect to both the public street and the on-site circulation to provide maximum safety and to minimize interference with street traffic. To ensure this, the Site Development Review Committee may require a traffic study be performed.

(3) The property owner shall do all work and pay all costs in connection with the construction of access driveways and their appurtenances on the right-of-way.

(4) Temporary or permanent nonpublic all-weather drive surfaces will be required at the beginning of construction for emergency access or turnaround for emergency vehicles. The

minimum standards for this surface shall consist of four inches of limestone base with a one-course seal coat in accordance with the City standards and specifications.

(5) Driveway entrances must be able to accommodate all vehicle types having occasion to enter the site, including delivery vehicles.

(6) Access to TxDOT facilities shall also comply with all TxDOT standards.

(7) No single-family dwelling, townhouse, or duplex unit may take direct access to arterial streets or collector streets if the property can be accessed by a local street. If it can only be accessed by an arterial or collector street, then adequate maneuvering space must be provided, as vehicles will not be allowed to back directly into these streets.

(8) Access from a nonresidential development to a local street shall be discouraged when the primary use of the local street is access to and from residences.

(b) Driveway design.

All connections shall meet the following standards, as noted on the drawing below for clarification:

(1) Adjacent left, adjacent right, and opposite right corner clearance and commercial driveway spacing is determined by the functional classification of the street as follows (where raised medians are present, the spacing can be reduced by 20%):

a. Major arterials, 275 feet.

b. Minor arterials, 230 feet.

c. Collectors, 185 feet.

d. Locals, 150 feet.

(2) Opposite left corner clearance and commercial driveway spacing is determined by the functional classification of the street as follows (where raised medians are present, the spacing can be reduced by 20%):

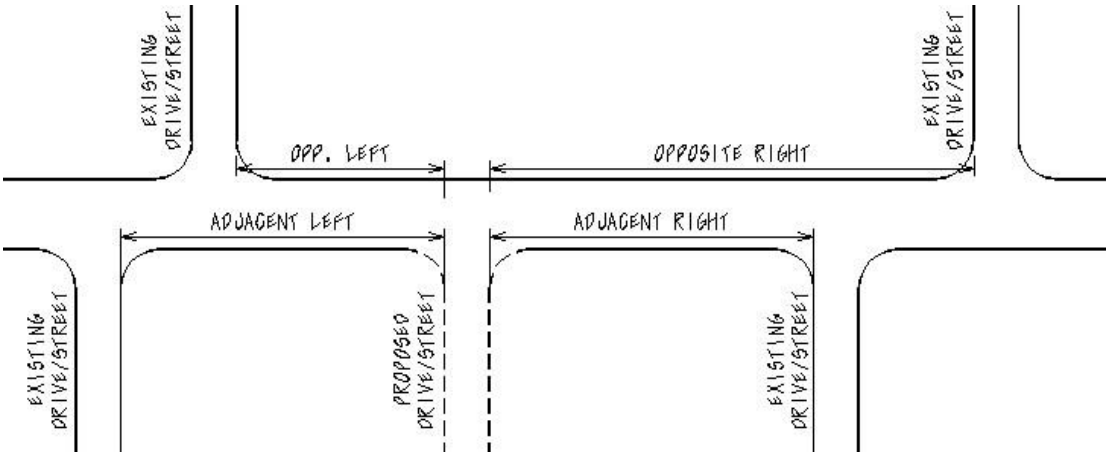
a. Major arterials, 125 feet.

b. Minor arterials, 125 feet.

c. Collectors, 90 feet.

d. Locals, 75 feet.

(3) Single-family residence, duplex, and townhouse driveway spacing are exempt from the functional classification, and shall maintain 30 feet of corner clearance.



(4) In the event that a particular parcel or parcels lack sufficient thoroughfare frontage to maintain the desirable spacing, the landowner have one of 3 options:

a. In cases where a property owner desires multiple access points that do not meet minimum spacing requirements, or when the property owner requests access to a street other than the one approved by the Site Development Review Committee, they may seek a variance from the Planning and Zoning Commission for minimum spacing, number, and/or location. Staff shall include in its report a recommendation from the Site Development Review Committee.

b. The adjacent landowners may agree to establish a common driveway. Common driveways shall meet the standards set forth herein. Approval shall be conditional upon submittal of a perpetual joint use agreement which complies with the requirements set forth in this article.

c. In cases where a property cannot meet the desirable spacing and currently has no improved access to the site, the City will not deny the property owner an access point. However, the access must be located in such a place to minimize safety concerns.

(5) Specifications for construction of access aprons shall be equal to or exceed the specifications for the existing street and be in accordance with the rules, regulations and standards for subdivision construction in the City.

(6) Driveways shall be designed to drain so that street drainage is contained within the street, storm sewer or appropriate drainageway in order to ensure protection to the private property. Typically, this is achieved by constructing the drive such that the elevation of the driveway at the property line is at least as high as the top of curb.

(c) Minimum curb return radius standards.

Minimum curb return radius standards (measured face-to-face) in accordance with AASHTO design standards:

(1) Single-family residential, 2 feet.

(2) Multifamily residential, 15 feet.

(3) Commercial, 25 feet.

(4) Industrial, 25 feet.

(d) One-way access standards (width):

(1) Single-family residential, 12--25 feet.

(2) Multifamily residential, 15--24 feet.

(3) Commercial, 15--29 feet.

(4) Industrial, 15--29 feet.

(e) Two-way access standards (width):

(1) Single-family residential, 12--25 feet.

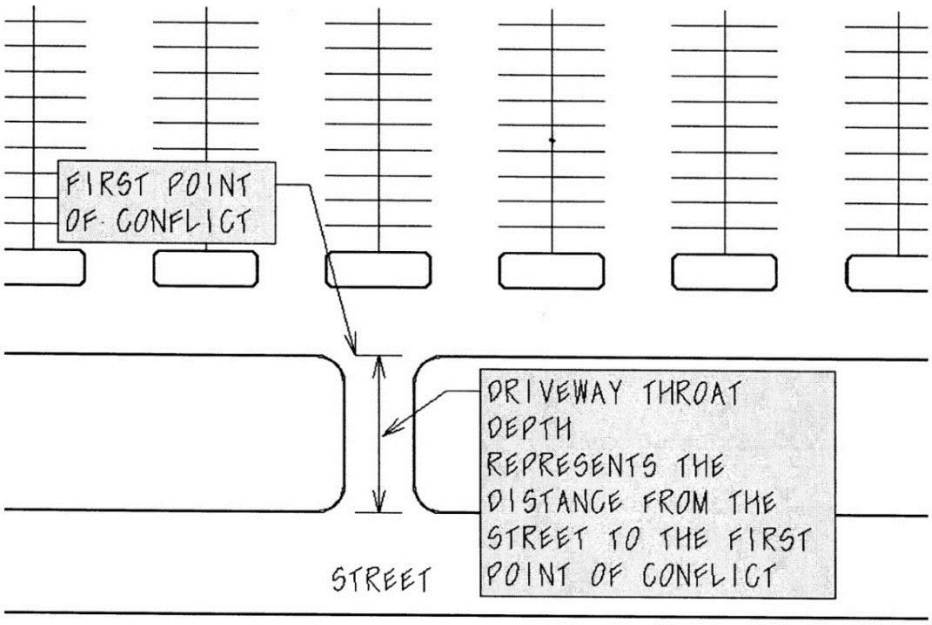
(2) Multifamily residential, 25--40 feet.

(3) Commercial, 25--50 feet.

(4) Industrial, 30-foot minimum.

(f) Throat depth:

	Unsignalized	**Signalized**
Major Arterial:		
(1 lane in, 1 lane out)	50'	75'
(1 lane in, 2 lanes out)	50'	75'
(2 lanes in, 3 lanes out)	N/A	200'
(2 lanes in, 4 lanes out)	N/A	300'
Minor Arterial:		
(1 lane in, 1 lane out)	50'	75'
(1 lane in, 2 lanes out)	50'	75'
Collector	30'	50'



Sec. 62-297 Parking and circulation.

(a) General principles.

(1) In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building for development. The minimum parking requirements herein specified are considered minimum requirements and shall be exceeded where usage, experience or design information makes such increase appropriate.

(2) Required off-street parking areas shall not be used for the commercial sale, repair, dismantling, servicing, storage or display of vehicles, equipment, materials, supplies or merchandise.

(3) Where open land is used for manufacturing, storage, or other operations in a manner similar to indoor operations, such open land shall be added to floor space in determining the number of parking spaces required.

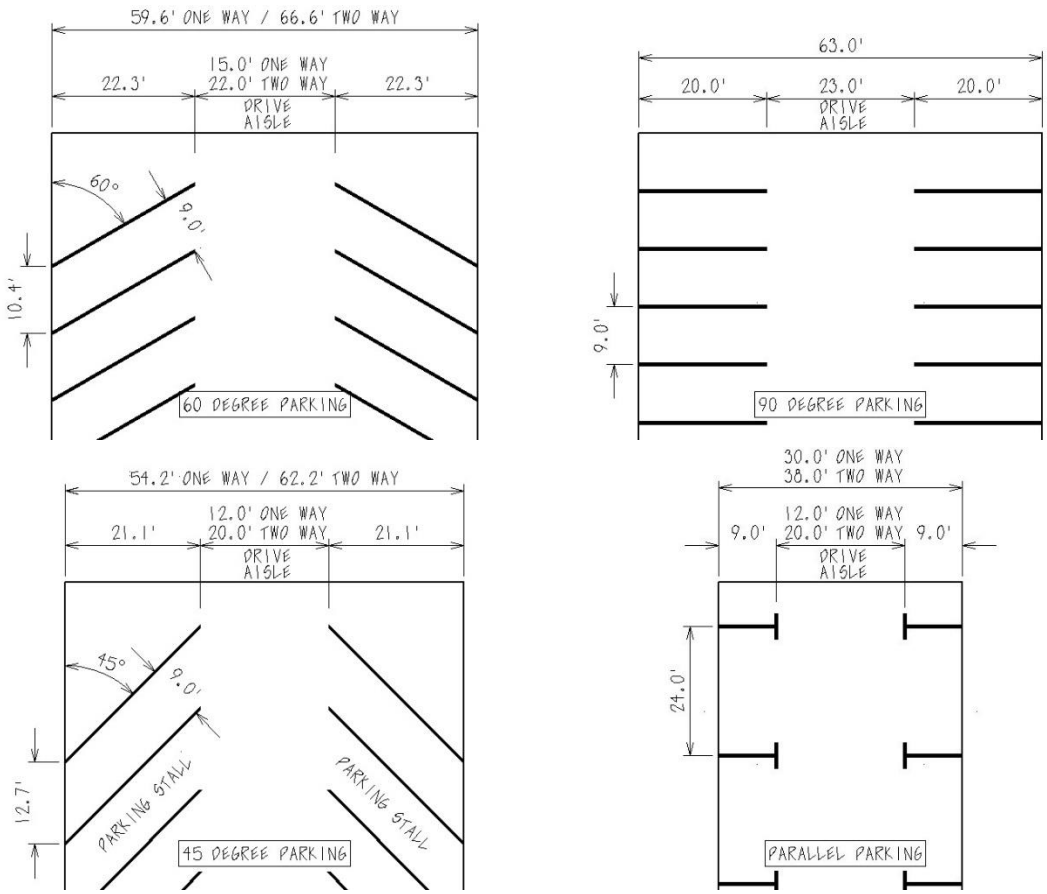
(4) All off-street parking spaces shall be accompanied by adequate automobile maneuvering area permitting full and direct ingress and egress to such parking spaces. The maneuvering area thereto shall be located entirely upon private property, except that the unobstructed width of an abutting alley may be considered for maneuvering area.

(5) All off-street parking spaces and accompanying maneuvering areas specifically designed for vehicles with a wheel base of passenger car design standard shall have an all-weather surface. The all-weather surface shall be composed of asphalt or Portland cement pavement or a penetration surface so as to provide a durable, dustless surface. All off-street parking spaces and accompanying maneuvering areas specifically designed for vehicles with a wheel base greater than passenger car design standards may be composed of gravel. All off-street parking areas shall be so graded and drained as to dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide the orderly and safe loading or unloading, parking and storage of vehicles.

(6) No requirement set forth in this article shall be construed to prevent collective utilization of any off-street parking facility for two or more buildings or uses, providing, however, that the total number of off-street parking spaces shall not be less than the sum of the requirements for the particular individual uses computed separately in accordance with the applicable regulations for off-street parking spaces.

(b) Parking area design.

The design of 45-degree, 60-degree, 90-degree, and parallel parking areas shall conform to the standards shown below. These requirements are measured from wall-to-wall. An 18-foot paved space (90-degree only) may be utilized where the space abuts a landscaped island with a minimum depth of four feet. An 18-foot space may also be used when adjacent to a sidewalk provided that the minimum width of the sidewalk is 6 feet.



(c) Striping and marking.

All striping for parking stalls shall be a minimum of four inches wide of white safety traffic paint designated for such use. All other markings required to designate crosswalks, directional arrows, fire lanes, handicap spaces, or service areas shall be in compliance with the Texas Manual on Uniform Traffic Control Devices.

(d) Handicap parking and access.

All handicap parking spaces and access shall be in accordance with the Texas Accessibility Standards.

(e) End islands.

An end island shall be required at the end of each parking row. The island shall have raised curbing not less than 6 inches in height and encompass an area of not less than 180 square feet for single parking row end islands or 360 square feet for double single row end islands.

(f) Dividers.

Bay dividers shall be provided in order to prevent uncontrolled movement across parking areas, to separate the parking area from the adjacent property, and to increase the safety of individuals using the lot. Dividers shall be provided on every other parking row and conform to one of the following standards:

(1) Wheel stops shall be made of concrete and/or approved materials not less than 6 inches in height and 6 feet in length and shall be anchored and placed in the center of each parking stall 2 1/2 feet behind the front of the parking space.

(2) Raised dividers shall have raised 6-inch curbing and be a minimum of 5 feet in width measured from face of curb to face of curb and tie in with the end island.

(3) Raised dividers that are landscaped shall have raised 6-inch curbing and be a minimum of seven feet in width and tie in to the end island.

(g) Traffic control signs.

All traffic control signs required for the site shall meet the standards established in the Texas Manual on Uniform Traffic Control Devices.

(h) Off-site parking.

All parking spaces required by this article shall be located on the same property as the structure they serve, except where an enlargement or change in use increases the required number of spaces. In such cases, off-site parking may be allowed and must conform to the following standards:

(1) The off-site parking area must be on adjacent property to the property served or within 100 feet of the structure they serve if not located on the property adjacent to the site.

(2) Access to off-site parking shall not interfere with the normal movement of traffic along adjacent arterials or collectors, as specified in the major thoroughfare plan, nor as to endanger pedestrians moving between the parking area and the structure served. Off-site parking is not allowed in any area that would require a pedestrian to cross an arterial street.

(3) To discourage the use of thoroughfares by circulating vehicles, provisions for circulation between adjacent parcels shall be provided through coordinated or joint parking systems.

(4) The off-site parking area shall remain in use as long as the parking requirement exists or until such time that adequate on-site parking is provided. In any case where required parking spaces are not located on the same property with the activity or establishment, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the City Attorney filed with the county and submitted with the application for site plan approval.

(i) Amount of parking required.

(1) Rules for computing the parking requirement.

a. Where fractional spaces result, the parking spaces required shall be construed to be the next largest whole number.

b. The parking space required for a use not specifically mentioned herein shall be the same as required for a similar use.

c. A parking analysis shall be required for each development and shall be a part of the site plan submittal. It shall include the number of employees, number of parking spaces provided, number of spaces required with proper calculations, square footage of each structure and the use of each structure. When necessary, an additional traffic impact analysis may be required to determine the impacts of a development on the off-site public street system.

(2) Minimum parking requirements.

a. Residential.*

***Note:** The single-family requirements only apply to new residential construction. Enclosure of a garage or a room addition would not be required to add parking if they can

accommodate two vehicles in their driveway. In the case where only one space is provided, an additional space will be required or a variance must be obtained.

1. Single-family dwelling:

   (i) 1--2 bedrooms: 2 spaces required.
   (ii) 3--4 bedrooms: 3 spaces required.
   (iii) 5 or more bedrooms: 4 spaces required.

2. Duplex and quadruplex: 1 per bedroom.

3. Apartments: 1 per bedroom.

4. Boardinghouse: 2 spaces per dwelling unit, plus 1 for every 2 roomers.

5. Manufactured home park: see Chapter 130.

6. Hotel or motel:

   (i) One per guestroom,
   (ii) One for every 400 square feet of public meeting space

b. Institutional and special uses.

1. Church: 1 per 2 seats in the sanctuary.

2. College or university: 1 per faculty and staff, plus 0.5 per resident and commuter student.

3. Public community, health, or welfare center: 1 per 250 square feet of gfa.

4. Day camp, kindergarten, or day nursery: 1 per 6 pupils, plus 1 per 2 staff members.

5. Fraternity or sorority house: 1 per residence, plus 1 for every 2 additional active members.

6. Hospital: 1.5 per bed.

7. Institution, religious, charitable, or philanthropic organizations: 1 per 200 square feet of gfa.

8. Trade schools, 1 per 200 square feet of gfa.

9. Nursing or convalescent homes: 1 per 5 beds, plus 1 for each day staff member.

10. Institutional home for the elderly: 1 per 5 residence units, plus 1 per each day staff member.

11. Residence home for the elderly: 1 per dwelling unit.

12. Place of public assembly: 1 per 50 square feet of gfa.

13. School, elementary: 1 per 20 students.

14. School, middle: 1 per 15 students.

15. School, high: 1 per 3 students.

16. Lodge or fraternal organization: 1 per 100 square feet of gfa.

c. Food and beverage services.

1. Drive-in, fast food, or take-out (service to auto): 8, plus 1 per 50 square feet of seating area
2. General restaurant or cafeteria (no service to auto): 1.25 per 100 square feet of gfa, plus spaces for banquet rooms

d. Office, professional, or financial uses.

1. Bank or savings and loan office: 1 per 300 square feet of gfa.
2. Clinic or doctor's office: 1 per 200 square feet of gfa.
3. General office: 1 per 300 square feet of gfa.
4. Dance, drama, or music studio: 1 per 200 square feet of gfa.

e. Personal service and retail uses.

1. Personal service establishments: 1 per 200 square feet of gfa.
2. Retail stores/shops in buildings: 1 per 250 square feet of gfa.
3. Shopping centers: 1 per 200 square feet of gfa.
4. Outdoor retail sales: 1 per 400 square feet of site area.

f. Recreation, social, and entertainment uses.

1. Commercial amusements: 1 per 100 square feet of enclosed gfa.
2. Bowling alley: 6 per lane.
3. Theater: 1 per 5 seats.
4. Night club: 1 per 100 square feet of gfa.

g. Motor vehicle and machinery uses.

1. Carwash: 1 per 500 square feet of gfa.
2. Automobile sales:
   (i) 1 per 400 square feet enclosed space.
   (ii) 1 per 2,000 square feet outside display area.
3. Auto repair, garage, or shop: 1 per 200 square feet of gfa.
4. Machinery sales, repair--indoor: 1 per 500 square feet of gfa.
5. Machinery sales, repair--outdoor: 1 per 2,000 square feet of gfa.

h. Storage, wholesale, and manufacturing uses.

1. Brick or lumberyard: 1 per 2,000 square feet of site area.
2. Storage of sand, gravel, petroleum products, etc.--outdoor: 1 per 2,000 square feet of site area.
   (i) Wholesale or manufacturing operation: 1 per 1,000 square feet of gfa or 1 per each 2 employees on the larger shift.
3. Warehouse and enclosed storage: 1 per 600 square feet of gfa.

4. Mini-storage complex: 1 per 30 square feet of office area.

Sections 62-298--62-327. Reserved.

Division 3. "Loading and Unloading Areas"

Sec. 62-328 Location.

(a) Loading and unloading areas shall be located so as not to restrict or interfere with the normal movement of pedestrians and vehicles along streets, sidewalks or in parking areas. Driveway placement shall be such that loading and unloading activities will in no way hinder vehicle ingress or egress.

(b) Areas designated for the loading and unloading of people shall be physically separate from areas designated for the loading and unloading of freight or goods not carried by people embarking/disembarking from a vehicle. Such physical separation will preclude use of a loading/unloading area by the other activity.

Sec. 62-329 Screening.

Loading and unloading areas shall be screened from parking areas and adjacent properties by a solid visual barrier not less than 6 feet in height. Loading and unloading areas for people are not required to be screened from parking areas and adjacent properties.

Sec. 62-330 Child care facilities.

Child care centers, kindergartens and other child care facilities shall be required to provide a loading/unloading area, separate from the parking area and as close to the main entrance as possible. The loading/unloading area shall have one-way movement.

Sec. 62-331 Solid waste disposal.

(a) Dumpsters, when used, shall be placed on concrete dumpster pads 6 inches in thickness, 12 feet in width and 10 feet in depth. The dumpster pad for a metal side loading container shall be nine feet in width and 6 feet in depth. A 300 or 90 gallon pad site shall be 3 feet in width and 3 feet in depth.

(b) The pad shall have a 6-foot visual screen on 3 sides with the fourth side remaining open for access or be fitted with a gate matching the screening on the other 3 sides.

Sections 62-332--62-350. Reserved.

Division 4. "Sight Distance Requirements"

Sec. 62-351 Sight obstruction standards for streets, alley corners and access points.

(a) Through adoption of this article, the City has adopted the sight distance standards and criteria as set forth in A Policy on Geometric Design of Highways and Streets developed by the American Association of State Highway and Transportation Officials, latest edition.

(b) It shall be unlawful for any person to place or maintain or cause or allow to be placed or maintained any plant, tree, fence, object or vehicle in such a position on a corner lot in the City such that a driver of a vehicle cannot see down the intersecting streets the distance specified in Sec. 62-351(a).

(c) It shall be unlawful for any person to place or maintain within the sight distance triangle any plant or object having a height greater than 30 inches above the level of the center of the nearest abutting street. Further the area of clear vision shall continue to a height not less than 13 1/2 feet above the street level or to such height necessary to provide an unobstructed view of the intersection as specified in Sec. 62-351(a).

Sec. 62-352 Obstruction of rights-of-way prohibited.

(a) It shall be unlawful for any person to place, maintain, permit or cause to be placed or maintained any tree, shrub, or plant of any kind or vehicle of any kind on or across public right-of-way as to:

(1) Obstruct passage on or use of that area by the public.

(2) Create a hazard to persons using the right-of-way.

(3) Restrict drainage flow.

(b) All parts of any vehicles parked adjacent to a public street or other public right-of-way shall be parked entirely on private property, shall not extend into the public right-of-way and shall be in observance of sight obstruction standards. Curbs or guideposts shall be installed as necessary to prohibit vehicle parking in the public right-of-way.

Sec. 62-353 Sight obstruction standards for fire hydrants.
It shall be unlawful for any person to place or maintain any plant, tree, fence or object that would visually obstruct the location of a fire hydrant from the public right-of-way.

Sections 62-354--62-379. Reserved.

Division 5. "Variances"

Sec. 62-380 Granting.

(a) Planning and Zoning Commission authorization.
The Planning and Zoning Commission may authorize a variance from the regulations in this article when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Planning and Zoning Commission shall prescribe only conditions that it deems necessary to or desirable in the public interest. In making the findings required by Sec. 62-380(c), the Planning and Zoning Commission shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, and expected type and volume of traffic.

(b) Conditions for granting.
No variance shall be granted unless the Planning and Zoning Commission finds that all of the following are met:

(1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his or her land;

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

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

(4) That the granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this article.

(c) Findings of Planning and Zoning Commission.

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

(d) Requests to be in writing.

All requested variances from this article shall be made in writing at least 10 working days prior to the date on which consideration is to be given by the Planning and Zoning Commission. Submittal shall be made in the Planning and Development Services Department.

Sec. 62-381 Appeals.

(a) Request; City Council review.

If the applicant should disagree with the action of the Planning and Zoning Commission, he or she may appeal the decision to the City Council. The request for appeal must be made in writing within 10 days of the Planning and Zoning Commission's decision. Following the filing of a notice of appeal, the City Council shall, within 30 days, conduct a review of the decision of the Planning and Zoning Commission denying the requested variance. In its review of the decision of the Planning and Zoning Commission to deny the requested variance, the City Council shall utilize the criteria set forth in Sec. 62-380.

(b) Failure of City Council to act.

An application for a variance is automatically granted if the City Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sections 62-382--62-405. Reserved.

Article VII. "Landscaping"

Division 1. "Generally"

Sec. 62-406 Scope and purpose.

Landscaping is required of all development that requires a full site plan review except single-family, patio home, townhouse, and duplex uses.

Sec. 62-407 Application of article.

(a) The landscaping requirements of this article shall apply to all land located in the City and proposed for other than single-family or duplex development. Such landscaping requirements shall become applicable as to each individual lot at such time as an application for a building permit on such lot is made. All landscaping requirements under this article shall run with the land and their application shall apply to any owner or subsequent owner.

(b) Each phase of a phased project shall comply with the requirements of this article. The portion left for subsequent phases shall remain of developable size and quality. No certificate of occupancy for the current phase or no building permit shall be issued for a subsequent phase of a project until all requirements of this article have been met. In order to issue a certificate of occupancy on a project in which landscaping improvements are required, the developer may either install the landscaping to the approval of the City or submit a letter of credit. In addition to the letter of credit, the owner shall provide a letter granting the City the right to install the required landscaping.

(c) When the requirements of this article conflict with requirements of other provisions of this Code, this article shall prevail; provided however, that the provisions of this article shall be subordinate to regulations pertaining to traffic and pedestrian safety.

Sections 62-408--62-427. Reserved.

Division 2. "Requirements"

Sec. 62-428 Site plan requirements.

(a) When a full site plan review by the Site Development Review Committee and/or the Planning and Zoning Commission is required, the site plan shall additionally contain the landscaping information listed below and also be referred to as the landscape plan:

(1) The location, quantity, size, common name, and scientific name of proposed landscaping in proposed landscaped areas;

(2) The location, quantity, size, common name, and scientific name of existing trees;

(3) The location of the proposed irrigation system or hose connections; and

(4) Information necessary for verifying whether the minimum required landscaping requirements have been met.

(b) The regulations in this article shall not apply to development located within the Downtown District. All landscape and streetscapes shall be in accordance with the approved downtown master plan.

Sec. 62-429 Landscaping requirements.

(a) Building site.

(1) Area requirements.

a. An area equal to 15% of the developed area (building site) shall be required to be landscaped. A lot shall not exceed a total of 90% impervious lot coverage. The developed area shall include the main structure, any accessory structure, parking lots, equipment lots, and outside storage areas. Landscaping shall be located to the front and sides of the parcel in those portions of the developed area facing public rights-of-way. Where screening is required along a public street, landscaping shall be placed between the screening and the street. The combination of trees, shrubs, and groundcover shall be used in fulfilling the landscaping requirements. Where open storage of materials, commodities, or equipment permitted in the "I" Industrial District, encompass one acre or more, not including any structures, the area to be landscaped shall be reduced to 5% of the developed area. Landscaping shall be placed to the exterior of the screening fence, or be an integral part of the screening fence, and to the front and sides of the parcel in those portions of the developed area facing public rights-of way. The combination of trees, shrubs, and groundcover shall be used in fulfilling the landscaping requirements.

b. Not less than 50% of the area to be landscaped shall be planted in trees.

c. Not less than 50% of the trees planted in the area to be landscaped shall be canopy trees. Canopy trees shall include those species whose mature crown height is 30 feet or more in height. Noncanopy trees shall include those species whose mature crown height is at least 15 feet in height.

(2) Trees.

a. Trees to be planted shall be 6 feet or more in height and measure a minimum of 1 1/2 inches in caliper when measured 12 inches from the base of the trunk or top of the ball. If smaller caliper trees are desired, 15 sf points shall be granted for each. This requirement also applies to all future building additions.

b. Existing trees used for landscape credit must have a minimum trunk diameter of 4 1/2 inches or larger and be in a healthy physical state. Should existing trees used for landscape credit die, they shall be replaced with new trees according to the requirements of Sec. 62-429(a)(2)c. Existing trees with a trunk diameter less than 4 1/2 inches may be given the same landscape credit as that given newly planted trees with similar characteristics.

c. Square feet of coverage shall be granted in the following amounts for container trees. If noncontainer trees are to be used, subtract 50 points.

1. Existing canopy trees protected during construction: 225 square feet.
2. Newly planted canopy trees, 1 1/2 inches to 3 inches: 200 square feet.
3. Newly planted canopy trees, greater than 3 inches: 350 square feet.
4. Existing noncanopy trees protected during construction: 100 square feet.
5. Newly planted noncanopy trees, 1 1/2 inches to 3 inches: 150 square feet.
6. Newly planted noncanopy trees, Greater than 3 inches: 225 square feet.

(3) Shrubs and planting beds.

a. Less than 2 gallons, 5 square feet;

b. 2 gallons--Up to 15 gallons, 10 square feet;

c. 15 gallons and larger, 15 square feet;

d. Planting beds used and maintained for the purpose of rotating live decorative planting materials shall be granted a credit of one square foot for each square foot of bedding area.

(4) Grasses and groundcovers.
Complete coverage by grass, live groundcover, and/or nonvegetative groundcover approved by the City is required in those areas not covered by trees or shrubs. Ten square feet will be granted for every 100 square feet of grass or live groundcover. This amount shall not exceed 15% of the overall landscaping required.

(b) Parking areas.

(1) Trees.
Trees are required for every parking lot end island regardless of the number of trees required by Sec. 62-429(a)(1). Other appropriate landscape materials may replace trees in some parking islands. Substituted trees must be planted elsewhere on site. Trees to be planted shall be a minimum of two inches in caliper when measured 12 inches from the base of the trunk or top of the ball.

(2) Shrubs, grasses, and live groundcovers.
The remainder of all parking lot islands shall be fully landscaped with shrubs, grass, live groundcovers, and/or nonvegetative groundcover approved by the City. When grass is used, 100% live grass groundcover and/or live groundcover is required, whether by solid sod overlay or preplanting and successful takeover of grass and/or planting of live groundcover. Any shrubs used shall constitute partial fulfillment of the requirements of Sec. 62-429(a)(1).

(3) Screening.
A decorative wall or landscaped earth berm at least two feet in height, or dense shrubbery having year-round foliage at least 3 feet in height, is required as a visual buffer along street frontages in the following circumstances:

a. Where outdoor parking areas are located within 30 feet of any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(c) Freestanding on-premises signs.

(1) Landscaping shall be provided for an area extending a minimum four linear feet in all directions from the support of all freestanding on-premises signage. In the event that the signage has more than one support, the landscaped area shall be extended between the supports at a width of not less than four feet. This landscaping shall constitute partial fulfillment of the requirements of Sec. 62-429(a)(1).

(2) The landscaped area shall be composed of a minimum of 50% shrubs. The remainder of the landscaped area shall have 100% live grass groundcover and/or live groundcover whether by

solid sod overlay or preplanting and successful takeover of grass and/or planting of live groundcover.

(d) General.

(1) Trees recommended for use in the Brazos Valley are identified on the tree species list and may be used to meet these requirements. Other species may be used upon review and approval of a landscape plan. Native species that conserve water and have reduced maintenance requirements are suggested for use in landscaping plans.

(2) All required landscaping shall be irrigated by either an underground sprinkler system, or hose attachment within 150 feet of all landscaping.

(3) All landscaping shall comply with the sight distance requirements of Article VI.

(4) Parking of vehicles shall not be allowed on approved landscaped areas or on landscaped areas for projects which were built prior to this article. Parking of vehicles on landscaped areas shall be considered a violation of this article, subject to the general penalty provisions of this article.

(5) Artificial plant materials are prohibited.

(6) Landscaping plans utilizing special or unusual arrangements of plants and other landscaping materials as part of an overall site design, shall prepare an alternative landscape plan including reasons supporting the need for an alternative plan.

(7) Nonvegetative groundcovers permitted by this article may include but is not limited to washed gravel, bark mulches, lava rock, sand, rock, or other decorative covers used in landscaping.

(8) Credit may be given for landscaping placed in the public right-of-way only with the approval of the Site Development Review Committee and, in the case of right-of-way controlled by the state, the approval of the state department of transportation. Landscaping placed in the public right-of-way shall conform to the provisions of Article VI regarding sight distance and not create a safety hazard.

(9) Variations to the requirements of this article may be approved if the landscape plan is sealed by a registered landscape architect. Such plans must show reasonable evidence that the requirements as set forth in this article were used as a guide.

Sec. 62-430 Redevelopment.

Any development existing, occupied, and in use at the time of passage of the ordinance from which this article is derived may continue to be so until such time the site undergoes a change of use, change of ownership, change of tenant, voluntary improvement, substantial reconstruction, conversion, structural alteration, relocation, or enlargement. At that time, an area equal to 8 %of the developed area (building site) shall be required to be landscaped. All square foot points shall follow Sec. 62-429.

Sec. 62-431 Tree policy.

No trees other than those species listed as a noncanopy tree on the approved tree list may be planted under or within 10 lateral feet of an overhead utility wire, or over or within 5 lateral feet of any public underground water line, sewer line, or other utility.

Sec. 62-432 Completion and extension.

(a) The City Planner and/or his or her designee shall review all landscaping for compliance with this article and approve the landscape plan. Landscaping shall be completed in compliance with the plan before a certificate of occupancy is issued. In the event placement of landscaping materials is not practicable at the time the certificate of occupancy is requested, a placement schedule will be submitted for approval prior to issuance of the certificate of occupancy. Failure to meet the placement schedule and place the required landscaping materials as shown on the approved landscape plan shall constitute a violation of this section of the Zoning Ordinance subject to the general penalty provisions of City Code Sec. 1-14.

(b) Replacement of dead landscaping must occur within 90 days of notification. Replacement material must be of similar character as the dead landscaping. Failure to replace dead landscaping, as required by the zoning official, or his or her designee, shall constitute a violation of this article subject to the general penalty provisions of City Code Sec. 1-14.

Sections 62-433--62-462. Reserved.

Division 3. "Variances"

Sec. 62-463 General.

(a) Planning and Zoning Commission authorization.
The Planning and Zoning Commission may authorize a variance from the regulations in this article when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Planning and Zoning Commission shall prescribe only conditions that it deems necessary to or desirable in the public interest.

(b) Conditions for granting.
No variance shall be granted unless the Planning and Zoning Commission finds that all of the following are met:

(1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his or her land;

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

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

(4) That the granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this article.

(c) Findings of Planning and Zoning Commission.
Such findings of the Planning and Zoning Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Planning and Zoning Commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Request to be in writing; submission.
All requested variances from this article shall be made in writing at least 10 working days prior to the date on which consideration is to be given by the Planning and Zoning Commission. Submittal shall be made in the Planning and Development Services Department.

Sec. 62-464 Appeals.

(a) Deadline for appeal.
If the applicant should disagree with the action of the Planning and Zoning Commission, he or she may appeal the decision to the City Council. The request for appeal must be made in writing within 10 days of the Planning and Zoning Commission's decision.

(b) City Council review.
Following the filing of a notice of appeal, the City Council shall, within 30 days, conduct a review of the decision of the Planning and Zoning Commission denying the requested variance. In its review of the decision of the Planning and Zoning Commission to deny the requested variance, the City Council shall utilize the criteria set forth in Sec. 62-463.

(c) Failure of City Council to act.
An application for a variance is automatically granted if the City Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sections 62-465--62-481. Reserved.

Division 4. "Tree List"

Sec. 62-482 Tree list.

The City's tree list is as follows:

(a) Canopy trees ("shade trees").

Common Name	**Botanical Name**
River Birch	Betula nigra
Pecan	Carya illinoesis
Southern Catalpa	Catalpa bignonoides
Hackberry	Celtis occidentalis
Ash	Fraxinus sp.
Eastern Red Cedar	Juniperus virginiana
Chinaberry	Melia azedarach
White Mulberry	Morus alba
Chinese Pistache	Pistacia chinensis
Sycamore	Platanus occidentalis
Cottonwood	Populus deltoides
'Bradford' Pear	Pyrus calleryana 'Bradford'
Bur Oak	Quercus macrocarpa

Common Name	Botanical Name
Water Oak	Quercus nigra
Willow Oak	Quercus phellos
Live Oak	Quercus virginiana
Weeping Willow	Salix babylonica
Chinese Tallow	Sapium sebiferum
Bald Cypress	Taxodium distichum
American Elm	Ulmus americana
Cedar Elm	Ulmus crassifolia
Lacebark Elm	Ulmus parvifolia
Chinese Elm	Ulmus pumilaa

(1) Canopy trees ("shade trees") should achieve a mature crown height greater than 20 feet.

(2) Other species not listed above may also satisfy canopy tree requirements. Any tree selected must be regionally acclimated and perform well under local conditions (e.g., soil, water, climate, etc.)

(b) Noncanopy trees ("ornamental trees").

Common Name	Botanical Name
Mimosa	Albizia julibrissin
Texas Buckeye	Aesculus arguta
Red Bud	Cercis Canadensis
Desert Willow	Chilopsis linearis
Possumhaw	Ilex decidua
Yaupon Holly (Tree Form)	Ilex vomitoria
Golden Raintree	Koelreuteria sp.
Crape Myrtle	Lagerstroemia indica
'Little Gem' Magnolia	Magnolia grandiflora 'Little Gem'
Crabapple	Malus sp.
Vitex (Chastetree)	Vitex agnus-castus

(1) Noncanopy trees ("ornamental trees") should achieve a mature crown height less than 20 feet.

(2) Other species not listed above may also satisfy noncanopy tree requirements. Any tree selected must be regionally acclimated and perform well under local conditions (e.g., soil, water, climate, etc.).

Sections 62-483--62-502. Reserved.

Article VIII. "Corridor Overlay Standards"

Division 1. "Generally"

Sections 62-503--62-527. Reserved.

Division 2. "West Villa Maria FM 2818, and FM 158 Corridor Overlay Districts"

Sec. 62-528 General purpose and description.

This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

Sec. 62-529 Lot and setback standards.

(a) Reference.
Refer to building setbacks and lot standards in Article IV.

(b) Perimeter fencing.
Except for retaining walls required for soil stabilization and walls along the side or rear of lots, all fences and walls over 3 feet high shall be set back a specific number of feet from any street right-of-way line, or on private property a specific distance from the edge of the adjacent paved street surface.

(c) Off-street parking.
All off-street parking, maneuvering, and loading areas shall be set back from any street right-of-way line.

(d) Building.
Building shall not be permitted within setbacks.

(e) Impervious surfaces.
Buildings, parking areas, or other impervious surfaces, except for paved pedestrian or bicycle paths and recreational amenities such as picnic tables, shall not be located within the floodway portion of the 100-year floodplain or within 50 feet of the top of the bank, whichever is greater as determined by the City Engineer or his or her designee, of existing water features (ponds, creek channels, or tributaries thereof) in the locations identified on the most current FEMA Flood Insurance Rate Maps (FIRMs) or on the City's Geographic Information System (GIS) or based on actual ground surveying for the top of bank. Where the 50-foot setback from the top of the bank applies, it may be reduced to a minimum of 25 feet if additional landscaping is planted in the remaining setback area in an amount of square-foot credit, equivalent to the total square feet of area by which the setback is reduced.

Standard	**West Villa Maria, FM 2818, FM 158**
Off-street parking setback	25 feet
Building within setbacks	Not permitted

Sec. 62-530 Landscape standards.

(a) General.
A certain percentage, as prescribed by the table below, of the developed area (buildings, parking areas, and other impervious surfaces) of each lot shall be landscaped. Landscaping placed in the rear of the developed area not adjacent to a public right-of-way is not given credit toward meeting the minimum requirement.

(b) Trees planted for landscape credit.
New trees planted for landscape credit shall be of a certain height and caliper, as prescribed by the table in Sec. 62-530(d). New trees shall be a species recommended for the Brazos Valley, a minimum of which shall have year-round foliage (e.g. Yaupon Holly, Japanese Black Pine, Live Oak) or be a flowering deciduous species (e.g. Crepe Myrtle, Texas Redbud, Bradford Pear, Purple Leaf Plum).

(c) Irrigation.
Installation of irrigation systems shall be required for all landscaped areas.

(d) Landscape credit for shrubs.
Newly planted 5-gallon or larger shrubs shall each be granted 20 square feet landscape credit.

Standard	**West Villa Maria, FM 2818, FM 158**
Landscaped lot	At least 17%
New landscaping	At least 8 feet in height, 2 1/2 inches in caliper, and a minimum of 75% having year-round foliage
Irrigation systems	Required
Landscape reserve	Not applicable

Sec. 62-531 Sign standards.

(a) Roof signs.
Roof signs shall not extend above the highest point of the roof visible from the nearest street toward which the sign faces.

(b) Moving signs.
Signs shall not have visible parts that move, swing, or rotate.

(c) Automatic signs.
Except for permitted automatic changeable copy signs, signs having revolving, flashing, blinking, or traveling lights are prohibited.

(d) Subdivision development signs.
In the A-O, RD-5, RD-7, and MF Districts, permitted subdivision or development identification signs shall not exceed a maximum height and size, as prescribed by the table in Sec. 62-531(f). Landscaping is required around the base of freestanding sign support structures as provided in Sec. 62-429.

(e) Permitted signs in C-1, C-2, and I Districts.
In the C-1, C-2, and I Districts, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum

height, as prescribed by the table below, where such maximum limits would be more restrictive than allowed by the Sign Ordinance.

(f) Permitted signs in C-3 District.
In the C-3 District, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum height, as prescribed by the table below, where such maximum limits would be more restrictive than allowed by the Sign Ordinance.

Standard	**District**	**West Villa Maria, FM 2818, FM 158**
Signs	A-O, RD-5, RD-7, MF	Maximum height of 5 feet and maximum size of 60 square feet
	C-1, C-2, I	Maximum height of 10 feet and maximum size of 150 square feet
	C-3	Maximum height of 15 feet and maximum size of 200 square feet

Sec. 62-532 Access and off-street parking standards.

(a) Direct access.
Direct access is prohibited onto the specified thoroughfares from single-family and duplex residential uses on lots of a maximum amount of frontage located within the corridor.

(b) Driveways and loading access.
Driveways and loading areas, in addition to off-street parking and maneuvering areas, shall be paved with an all-weather surface of asphalt or concrete. Where the driveway or parking area on a lot provides the sole vehicular access from the street to a nonresidential use on an abutting lot, the driving surface used for such purpose shall be steel-reinforced concrete.

(c) Public sidewalks.
All public sidewalks along a specified thoroughfare shall be at least 6 feet wide.

(d) Number of driveways.
The maximum number of driveways permitted for each lot shall not exceed the following limits, as prescribed by the table in Sec. 62-532(f).

(e) Corner clearance and driveway spacing.
The minimum corner clearance and driveway spacing determined by the functional classification of the street shall not be less than the limits described in Sec. 62-296.

(f) Parking rows.
The length of rows of parking spaces between end islands or peninsulas shall not exceed a certain number of feet and, in outdoor parking areas having spaces for more than a specified number of vehicles where such islands or peninsulas are required, the distance from any parking space to a landscaped end island or peninsula shall not exceed a certain number of feet, as prescribed by the following table.

Standard	**West Villa Maria, FM 2818, FM 158**

Standard	West Villa Maria, FM 2818, FM 158
One access point	Lot frontages less than 200 feet
Two access points	Lot frontages of 201--400 feet
Three access points	Lot frontages of 401--600 feet
Four access points	Lot frontages greater than 600 feet
Parking rows	Maximum of 180 feet

Sections 62-533--62-557. Reserved.

Division 3. "SH 47 Corridor Overlay District"

Sec. 62-558 General purpose and description.

This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

Sec. 62-559 Lot and setback standards.

(a) Reference.
Refer to building setbacks and lot standards in Article IV.

(b) Perimeter fencing.
Except for retaining walls required for soil stabilization and walls along the side or rear of lots, all fences and walls over 3 feet high shall be set back a specific number of feet from any street right-of-way line, or on private property a specific distance from the edge of the adjacent paved street surface, as prescribed in the table in Sec. 62-559(e), whichever is less.

(c) Off-street parking.
All off-street parking, maneuvering, and loading areas shall be set back from any street right-of-way line.

(d) Building and signage.
Signage shall be permitted within setbacks.

(e) Impervious surfaces.
Buildings, parking areas, or other impervious surfaces, except for paved pedestrian or bicycle paths and recreational amenities such as picnic tables, shall not be located within the floodway portion of the 100-year floodplain or within 50 feet of the top of the bank, whichever is greater as determined by the City Engineer or his or her designee, of existing water features (ponds, creek channels, or tributaries thereof) in the locations identified on the most current FEMA Flood Insurance Rate Maps (FIRMs) or on the City's Geographic Information System (GIS) or based on actual ground surveying for the top of bank. Where the 50-foot setback from the top of the bank applies, it may be reduced to a minimum of 25 feet if additional landscaping is planted in the remaining setback area in an amount of square-foot credit, equivalent to the total square feet of area by which the setback is reduced.

Standard	SH 47
Subdivision perimeter fencing setback alongside or rear of lots	Along SH 47, at least 50 feet; along side streets 25 feet
Off-street parking setback	At least 50 feet
Building within setbacks	Not permitted
Signage within setbacks	Permitted

Sec. 62-560 Landscape standards.

(a) General.
A certain percentage, as prescribed by the table in Sec. 62-560(e), of the developed area (buildings, parking areas, and other impervious surfaces) of each lot shall be landscaped. Landscaping placed in the rear of the developed area not adjacent to a public right-of-way is not given credit toward meeting the minimum requirement.

(b) Trees planted for landscape credit.
New trees planted for landscape credit shall be of a certain height and caliper, as prescribed by the table in Sec. 62-560(e). New trees shall be a species recommended for the Brazos Valley, a minimum of which shall have year-round foliage (e.g., Yaupon Holly, Japanese Black Pine, Live Oak) or be a flowering deciduous species (e.g. Crepe Myrtle, Texas Redbud, Bradford Pear, Purple Leaf Plum).

(c) Irrigation.
Installation of irrigation systems shall be required for all landscaped areas.

(d) Landscape credit for shrubs.
Newly planted 5-gallon or larger shrubs shall each be granted 20 square feet landscape credit.

(e) Landscape reserves.
A landscape reserve shall be in effect for the front, side, and rear for commercial, residential, and subdivision properties as existing trees with a four-inch caliper or greater shall be preserved.

Standard	SH 47
Landscaped lot	At least 17%
New landscaping	At least 8 feet in height, 2 1/2 inches in caliper
Irrigation systems	Required
Landscape reserve	Commercial reserves at least 40 foot front and 10 foot side and rear; residential reserves at least 40 foot front along Highway 47; subdivision reserves at least 40 foot front along Highway 47

Sec. 62-561 Sign standards.

(a) Roof signs.
Roof signs shall not extend above the highest point of the roof visible from the nearest street toward which the sign faces.

(b) Moving signs.
Signs shall not have visible parts that move, swing, or rotate.

(c) Automatic signs.
Except for permitted automatic changeable copy signs, signs having revolving, flashing, blinking, or traveling lights are prohibited.

(d) Subdivision development signs.
In the A-O, RD-5, RD-7, and MF Districts, permitted subdivision or development identification signs shall not exceed a maximum height and size, as prescribed by the table below. Landscaping is required around the base of freestanding sign support structures as provided in this chapter.

(e) Permitted signs in C-1, C-2, and I Districts.
In the C-1, C-2, and I Districts, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum height, as prescribed in the table set out in Sec. 62-561(f), where such maximum limits would be more restrictive than allowed by the Sign Ordinance.

(f) Permitted signs in C-3 District.
In the C-3 District, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum height, as prescribed by the following table, where such maximum limits would be more restrictive than allowed by the Sign Ordinance.

Standard	**District**	**SH 47**
Signs	A-O, RD-5, RD-7, MF	Maximum height of 5 feet and maximum size of 60 square feet
	C-1, C-2, I	Not to exceed 5 feet high by 8 feet long
	C-3	Not to exceed 5 feet high by 8 feet long

Sec. 62-562 Access and off-street parking standards.

(a) Direct access.
Direct access is prohibited onto the specified thoroughfares from single-family and duplex residential uses on lots of a maximum amount of frontage located within the corridor.

(b) Driveways and loading access.
Driveways and loading areas, in addition to off-street parking and maneuvering areas, shall be paved with an all-weather surface of asphalt or concrete. Where the driveway or parking area on a lot provides the sole vehicular access from the street to a nonresidential use on an abutting lot, the driving surface used for such purpose shall be steel-reinforced concrete.

(c) Public sidewalks.
All public sidewalks along a specified thoroughfare shall be at least 6 feet wide. Sidewalks within the Highway 47 Corridor will be allowed to locate in the setback and be designated to follow a meandering path.

(d) Driveway and street corner spacing.
The minimum distance between driveways and street corners determined by the functional classification of the street shall not be less than the limits described by the table below.

(e) Driveway spacing.
The minimum distance between driveways determined by the functional classification of the street shall not be less than the limits described by the table below.

(f) Parking rows.

The length of rows of parking spaces between end islands or peninsulas shall not exceed a certain number of feet and, in outdoor parking areas having spaces for more than a specified number of vehicles where such islands or peninsulas are required, the distance from any parking space to a landscaped end island or peninsula shall not exceed a certain number of feet, as prescribed by the table below.

Standard	**SH 47**
Minimum distance between driveways and street corners	250 feet
Minimum distance between driveways	500 feet
Parking rows	Maximum of 360 feet

Sec. 62-563 Lighting standards.

(a) General.

Unless otherwise expressly stated, the provisions of this section shall apply to all outdoor lighting except lights on lots containing single-family detached houses, public streetlights and the exempt outdoor recreational uses specified in the following subsection.

(b) Exempt outdoor recreational use.

Because of their unique requirements for nighttime visibility and their limited hours of operation, schools and public parks and open space shall be exempt from the outdoor lighting standards of this section. Exempt outdoor recreational uses shall be subject to all other applicable requirements of this article and the following standards.

(1) Exempt outdoor recreational uses shall not exceed a maximum permitted post height of 50 feet.

(2) Exempt outdoor recreational uses may exceed a total cutoff angle of 90 degrees, provided that the luminaire is shielded to prevent light and glare spillover to adjacent residential property. The maximum permitted illumination at the property shall not exceed two footcandles.

(3) No flickering or flashing lights shall be permitted.

(4) Light sources or luminaries shall not be located within landscape areas except on pedestrian walkways.

(5) Lights shall not be illuminated after 11:00 p.m.

(c) Outdoor lighting levels.

Outdoor lighting shall not exceed the following levels.

(1) 0.50 footcandle at the property line if the subject property abuts a residential district or a lot containing a residential use; or

(2) 1.00 footcandle at the property line if the subject property abuts a nonresidential district or lot containing a nonresidential use or at the right-of-way line.

(d) Heights of outdoor lighting.

Outdoor lighting shall not exceed the following heights.

(1) Light fixtures in parking lots shall not exceed a maximum height of 24 feet;

(2) Pedestrian walkway fixtures shall not exceed a maximum height of 12 feet.

Standard	SH 47
Outdoor recreational lighting post height	Maximum height of 50 feet
Total cutoff angle for outdoor recreational lighting	90 degrees
Maximum permitted illumination	2 footcandles
Parking lot fixtures	Maximum height of 24 feet
Pedestrian walkway fixtures	Maximum height of 12 feet

Sec. 62-564 Special restrictions for gasoline stations.

In cases where the underlying zoning district permits gasoline service stations and a station is proposed, the following restrictions shall apply.

(a) Restricted activities.

(1) No major emergency auto repair.

(2) No body, fender, or paintwork.

(3) No sale or rental of vehicles.

(4) All activities except those associated with fuel pumping must be conducted within an enclosed building.

(5) Service bays and carwash bays shall be oriented to face away from any right-of-way. Where this is impossible, screening methods will be required.

(b) Setbacks.
Refer to building setbacks and lot standards in Article IV.

(1) The main building shall conform to a minimum front, side, rear, and side street setback.

(2) Fuel pumps shall conform to a minimum front, side, rear, and side street setback.

(3) Canopies shall conform to a minimum front, side, rear, and side street setback of 15 feet.

(c) Storage and display.

(1) No outside storage or display of merchandise.

(2) Storage tanks must be located below grade.

(3) No outside storage of vehicles.

(4) Ice and vending machines must be enclosed in a building.

(5) No additional advertising within view of the right-of-way.

(d) Signs.

(1) Sign height shall be restricted by the provisions of Sec. 62-595, but shall not exceed the height of the building.

(2) One detached sign and two attached signs will be permitted.

(3) No freestanding fuel price signage shall be permitted.

Sections 62-565--62-591. Reserved.

Division 4. "South College Corridor Overlay District"

Sec. 62-592 General purpose and description.

This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

Sec. 62-593 Lot and setback standards.

(a) Reference.
Refer to building setbacks and lot standards in Article IV.

(b) Off-street parking.
All off-street parking, maneuvering, and loading areas within a SC-B District shall be located to the rear of the property, behind any structures placed on the lot.

(c) Building and signage.
Signage shall be permitted within setbacks.

(d) Impervious surfaces.
Buildings, parking areas, or other impervious surfaces, except for paved pedestrian or bicycle paths and recreational amenities such as picnic tables, shall not be located within the floodway portion of the 100-year floodplain or within 50 feet of the top of the bank, whichever is greater as determined by the City Engineer or his or her designee, of existing water features (ponds, creek channels, or tributaries thereof) in the locations identified on the most current FEMA Flood Insurance Rate Maps (FIRMs) or on the City's Geographic Information System (GIS) or based on actual ground surveying for the top of bank. Where the 50-foot setback from the top of the bank applies, it may be reduced to a minimum of 25 feet if additional landscaping is planted in the remaining setback area in an amount of square-foot credit, equivalent to the total square feet of area by which the setback is reduced.

Standard	**South College**
Off-street parking setback in SC-B	Located towards the rear, behind the main structure
Building within setbacks	Not permitted
Signage within setbacks	Permitted

Sec. 62-594 Landscape standards.

(a) General.
A certain percentage, as prescribed by the table below, of the developed area (buildings, parking areas, and other impervious surfaces) of each lot shall be landscaped. Landscaping placed in the rear of the developed area not adjacent to a public right-of-way is not given credit toward meeting the minimum requirement.

(b) Trees planted for landscape credit.
New trees planted for landscape credit shall be of a certain height and caliper, as prescribed by the table below. New trees shall be a species recommended for the Brazos Valley, a minimum of

which shall have year-round foliage (e.g., Yaupon Holly, Japanese Black Pine, Live Oak) or be a flowering deciduous species (e.g. Crepe myrtle, Texas Redbud, Bradford Pear, Purple leaf Plum).

(c) Irrigation.
Installation of irrigation systems shall be required for all landscaped areas.

(d) Landscape credit for shrubs.
Newly planted 5-gallon or larger shrubs shall each be granted 20 square foot landscape credit.

Standard	South College
Landscaped lot	At least 8%
New landscaping	At least 8 feet in height, 2 1/2 inches in caliper
Irrigation Systems	Required
Tree requirement	1 Live Oak per 50 feet of lot frontage will be required. These shall be spaced equally apart and placed within the first 3 feet of the front property line

Sec. 62-595 Sign standards.

(a) Roof signs.
Roof signs shall not extend above the highest point of the roof visible from the nearest street toward which the sign faces.

(b) Moving signs.
Signs shall not have visible parts that move, swing, or rotate.

(c) Automatic signs.
Except for permitted automatic changeable copy signs, signs having revolving, flashing, blinking, or traveling lights are prohibited.

(d) Permitted signs in SC-R and SC-B Districts.
In the SC-R and SC-B Districts, permitted wall signs and freestanding signs shall not exceed a specified maximum size, and permitted freestanding signs shall not exceed a specified maximum height, as prescribed by the table below, where such maximum limits would be more restrictive than allowed by Chapter 98, Signs.

Standard	District	South College
Signs	SC-B, SC-R	Maximum height of 5 feet and maximum size of 60 square feet

Sec. 62-596 Access and off-street parking standards.

(a) Driveways and loading access.
Driveways and loading areas, in addition to off-street parking and maneuvering areas, shall be paved with an all-weather surface of asphalt or concrete. Where the driveway or parking area on a lot provides the sole vehicular access from the street to a nonresidential use on an abutting lot, the driving surface used for such purpose shall be steel-reinforced concrete.

(b) Corner clearance and driveway spacing.
A joint access agreement may be required to provide a reduction in the driveway and street corner spacing. In the event joint access cannot be obtained, the minimum corner clearance and driveway spacing shall be determined by the functional classification of the street and shall not be less than the limits described in Sec. 62-296. Residential driveways are exempt from this requirement.

(c) Public sidewalks.
Public sidewalks will not be required for any portions of a lot that are directly adjacent to South College. Sidewalks will be required along all other curb and gutter streets.

Sections 62-597--62-625. Reserved.

Division 5. "Variances"

Sec. 62-626 Granting.

(a) Planning and Zoning Commission authorization.
The Planning and Zoning Commission may authorize a variance from the regulations in this article when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Planning and Zoning Commission shall prescribe only conditions that it deems necessary to or desirable in the public interest.

(b) Conditions for granting.
No variance shall be granted unless the Planning and Zoning Commission finds that all of the following are met:

(1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his or her land;

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

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

(4) That the granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this article.

(c) Findings of Planning and Zoning Commission.
Such findings of the Planning and Zoning Commission, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Planning and Zoning Commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Request to be in writing; submission.
All requested variances from this article shall be made in writing at least 10 working days prior to the date on which consideration is to be given by the Planning and Zoning Commission. Submittal shall be made in the Planning and Development Services Department.

Sec. 62-627 Appeals.

(a) Request; time limit.
If the applicant should disagree with the action of the Planning and Zoning Commission, he or she may appeal the decision to the City Council. The request for appeal must be made in writing within 10 days of the Planning and Zoning Commission's decision.

(b) Review by City Council.
Following the filing of a notice of appeal, the City Council shall, within 30 days, conduct a review of the decision of the Planning and Zoning Commission denying the requested variance. In its review of the decision of the Planning and Zoning Commission to deny the requested variance, the City Council shall utilize the criteria set forth in Sec. 62-626.

(c) Failure of City Council to act.
An application for a variance is automatically granted if the City Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sections 62-628--62-657. Reserved.

Article IX. "Wireless Telecommunication Facilities"*

***Cross references:** Wireless telecommunication facilities, Sec. 130-35.

Sec. 62-658 Definitions.
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: See Sec. 130-35(a).

Sec. 62-659 WTF standards.

(a) Height limitations.

(1) All WTFs are subject to the normal zoning height restrictions for each zoning district where permitted by right. In any zoning district where a tower is a conditional use, the allowable height is determined through the review of the visual impact analysis, with the maximum permitted heights for WTFs being determined by the use categories.

(2) In no case shall a proposed transmission tower exceed 200 feet within the City limits, except where a height variance is granted by the Zoning Board of Adjustment to allow a tower or antenna that demonstrates a hardship that can only be remedied by locating on a proposed site within the City limits.

(b) Tower siting along major thoroughfares and gateways.
In an effort to preserve and protect the City's major thoroughfares and gateways into the City, this article places additional setbacks on WTFs potentially locating in or near these areas. The setback for these areas is determined by measuring from the centerline of the right-of-way of any highway, arterial, or collector on either side running along the length of the right-of-way. Refer to the WTF siting matrix in Zoning Ordinance Sec. 130-35(b)(2). Exception: All direct-to-home services, citizen's band radio, and all stealth facilities.

(c) Siting in overlay districts.
Certain, more intense WTFs are not allowed in the overlay districts where their presence would destroy or detract from the aesthetic beauty, historic significance, or safety and general welfare of the properties located therein. Some WTFs are allowed but must adhere to a stricter siting policy such as increased setbacks, distance from nearby residential uses, or screening. Refer to the WTF siting matrix in Zoning Ordinance Sec. 130-35(b)(2). Exception: All direct-to-home services, citizen's band radio, and all stealth facilities.

(d) Separation between towers.

(1) The City desires to protect its natural beauty and skyline by limiting the number of towers per square mile. Densities for towers are calculated using the following:

a. For minor facilities, towers shall be separated by a minimum of the height of the tower multiplied by 50.

b. For intermediate facilities, towers shall be separated by a minimum of the height of the tower multiplied by 45.

c. For major facilities, towers shall be separated by a minimum of the height of the tower multiplied by 25.

(2) Exception: Stealth facilities.

Sec. 62-660 Review processes.

(a) The Planning and Development Services Department has 3 review processes, which may apply to the development of WTFs:

(1) Platting.
The normal platting requirements as required by the Subdivision Ordinance and the Texas Local Government Code shall apply to WTFs.

(2) WTF registration.
This process is required for certain minor use subcategories and all intermediate and major subcategories with the exception of direct-to-home services and citizen's band radio. The applicant can register by submitting the appropriate information to the Planning and Development Services Department. This information will be used to aid in long range planning.

(3) Site Development Review Committee (SDRC).
The Site Development Review Committee is the main body overseeing site design and development for the City. They may implement any of the site-specific criteria set forth in this article in addition to other local government codes and ordinances.

(b) To make application for site review, the following is required:

(1) Completed application for site review and application fee submitted to the Planning and Development Services Department.

(2) A drawing and any supporting documents that identifies:

a. The location of existing applicant-owned wireless telecommunication facilities in the county;

b. The type and height of each existing facility;

c. The current proposed facility;

d. The type and height of the proposed facility;

e. At least 3 collocation alternatives to the applicant's own development along with proof of a genuine effort in collocating on or attaching to an existing support structure; a certified letter addressed to potential lessors is recommended in addition to evidence that demonstrates that no existing tower or support structure can accommodate the applicant's proposed WTF. Any of the following may be submitted as evidence:

1. No existing structures are located within the geographic area required to meet applicant's engineering requirements.
2. Existing structures are of insufficient height to meet applicant's engineering requirements.
3. Existing structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing structures, or the antenna on the existing structures would cause interference with the applicant's proposed antenna.
5. The fees, costs, or contractual provisions required by the owner in order to share an existing structure or to adapt an existing support structure for sharing are unreasonable. Costs exceeding those for new tower development are presumed to be unreasonable.
6. The applicant demonstrates that there are other limiting factors that render existing structures unsuitable. It is not necessary to reveal future plans or locations for additional proposed facilities. The plan will assist the City in understanding the need for any new wireless telecommunication facility, assess the land use impacts, and aid in comprehensive land use planning.

(3) Visual impact analysis; presented by one of two methods, photographs or drawings. In either case, 4 views or elevations shall be submitted looking toward the site (typically, north, south, east, and west) including site and the surrounding properties measured from the center point of the tower out to a distance equal to 3 times the height of the proposed tower. This drawing will depict a "skyline" view showing the entire height of the proposed tower and the surrounding structures, trees, or any other objects contributing to the skyline profile. The applicant shall draw the proposed tower directly on the photographs in black ink.

(4) Proof of compliance with FCC regulations.

(5) Notification of an impending environmental assessment required by the National Environmental Protection Agency (NEPA) and a copy when the assessment is completed (if applicable).

(6) A letter addressed to the City declaring an intent and willingness to build out a proposed tower to allow at least two other service providers.

(7) Copies of a site plan (the site plan is not the same as the WTF facility plan) as per Site Development Review Committee requirements; including signature lines for both the owner of the WTF and/or the owner of the property indicating an agreement to remove the entire WTF and any related equipment within 60 days of abandonment. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer. Upon receipt of the above items, the Site Development Review Committee will process the application and review the site plan. Upon SDRC approval, and where a conditional use permit is required, the site plan will be forwarded along with a Planning and Development Services Department staff recommendation to the Planning and Zoning Commission for consideration.

Sec. 62-661 Site development criteria for WTFs.

The site development requirements for WTFs follow the normal standards for any other type of development according to the City's local code and ordinances. However some additional standards apply to these sites as follows:

(a) Additional setbacks and separation requirements.

WTFs are not required to comply with the standard setbacks for each zoning district but shall comply with the landscaping and screening requirements of Sec. 62-661(d). Some additional setbacks or separation shall be required depending on the type of WTF and the potential location of that facility. Refer to the WTF siting matrix in Zoning Ordinance Sec. 130-35(b)(2).

(1) To protect citizens in their homes, transmission towers shall be placed a tower height distance away from any residential structure or residential zone boundary.

(2) To minimize the number of towers per square mile, a tower shall be placed a minimum distance from all other towers.

(3) To protect City thoroughfares and gateways, a WTF shall be placed a specified distance from the centerline of such designated areas.

(4) To protect the architectural beauty and significance of certain overlay districts, certain WTFs shall be placed at or behind the imaginary front line of the most major (largest gfa) structure on site.

(b) Security fencing.

Towers shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anticlimbing device.

(c) Special aesthetic and lighting standards.

(1) New transmission towers shall maintain a galvanized steel finish or be painted in accordance with any applicable standards of the FAA.

(2) The design of the related buildings and equipment shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the facility to the natural setting and built environment.

(3) If an antenna is installed on a support structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusiveness as possible.

(4) WTFs shall not be artificially lighted with the exception of motion detectors as security lighting, unless required by the FAA or other applicable authority. If lighting is required, the City may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties.

(d) Landscaping and screening requirements.

The following requirements shall govern the landscaping and screening for a transmission tower or any parabolic antenna larger than two meters.

(1) Tower compounds shall be landscaped with a buffer of plant materials that effectively screens the base of the WTF site from view of public right-of-way. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound. A screening fence may be used in part to screen a WTF, but must be in addition to the required landscaping.

(2) Certain parabolic dishes attached to the ground shall be screened from public right-of-way by a combination of siting at or behind the imaginary front line of the most major structure on

site (largest in gross floor area) and landscaping a 4 feet wide strip between the dish and right-of-way. Refer to the WTF siting matrix in Zoning Ordinance Sec. 130-35(b)(2).

(3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, where towers are sited on large, wooded parcels, natural growth around the site perimeter may be a sufficient buffer.

(4) It is the responsibility of the WTF owner to maintain any required landscaping.

(e) Parking and access.
All proposed transmission towers shall provide a point of access from right-of-way which is in conformance with City driveway standards. No off-street parking is required.

Sec. 62-662 Abandonment.

Any WTF that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such a facility shall remove same within 60 days of receipt of notice from the City notifying the owner of such abandonment. If such facility is not removed within said 60 days, the City may remove such facility at the property owner's expense. If there are two or more users of a single WTF, then this provision shall not become effective until all users cease operations on the tower.

Sections 62-663--62-669. Reserved.

Article X. "Building Design and Color"

Division 1. "Building Design"

Sec. 62-670 Scope and Purpose.

(a) Purpose.
The purpose of this division is to set minimum standards for the exterior design and appearance of nonresidential buildings, which are recognized as enhancing property values and are in the interest of the general welfare of the City.

(b) Scope and enforcement.

(1) The provisions of this division shall be administered by the Director of Development Services or designee.

(2) The standards and criteria contained within this division and the Building Design Guidelines are deemed to be minimum standards and shall apply to buildings constructed after February 2, 2015. Buildings constructed after February 2, 2015 shall at all times comply with the provisions of this division and the version of the Building Design Guidelines in force at the time of the building permit application.

(3) After February 2, 2015, when a change is proposed in the uses of a permitted building, the additional design standards apply as follows:

a. If a certificate of occupancy has previously been issued for the building, the additional provisions of this division and the Building Design Guidelines shall be waived until such time that the structure is expanded or modified. Compliance is required with all other sections of this division and all other applicable ordinances.

b. If a certificate of occupancy has never been issued for the building, all provisions of this division and the Building Design Guidelines must be met prior to issuance of a certificate of occupancy.

c. Upon request by an applicant, the Design Review Board may make a recommendation to City Council to approve a waiver of all or part of the provisions of this division, building design, or the Building Design Guidelines. Prior to consideration of the waiver, a public hearing shall be held, with written notice sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within 200 feet of any property affected thereby, not less than 10 days before the hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail.

(4) Provisions of this division and the Building Design Guidelines shall not apply to the following:

a. Properties not adjoining or located within 200 feet, whichever is greater, of the following major thoroughfares:

1. Texas Avenue
2. William Joel Bryan Parkway
3. Boonville Road
4. F.M. 158
5. Harvey Mitchell Parkway/F.M. 2818
6. Earl Rudder Freeway/State Highway 6
7. S. College Avenue/State Highway 308
8. E. 29th Street
9. Villa Maria Road
10. Beck Street
11. State Highway 21
12. F.M. 1179
13. Briarcrest Drive
14. State Highway 47
15. Wellborn Road
16. College Main Street
17. Tabor Road/F.M. 974
18. University Drive East/State Highway 60
19. Leonard Road
20. Groesbeck Street
21. S. Bryan Avenue
22. 800 block of S. Sims Avenue
23. 800 – 1100 blocks of S. Main Street

b. Single family, two-family (duplex), or multi-family residential construction of two stories or less;

c. Structures in historic preservation or other overlay districts, if applicable design standards exist for those districts and a conflict exists between those standards and this division;

d. Warehouses or other non-office structures on properties in Industrial Districts;

e. Temporary uses lasting no longer than six months; or

f. Buildings constructed prior to February 2, 2014, which meet any of the following criteria:

1. Portions of a building proposed to be added to any existing commercial structure, which will not increase the originally approved floor area by 50% or more, either by a single expansion or by the cumulative effect of a series of expansions; or

2. Reconstruction of a commercial building due to damage of any kind that necessitates improving, rehabilitating, or reconstructing not more than 50% of the original structure or by the cumulative effect of a series of reconstructive activities.

Sec. 62-671 Conflicts.

(a) Conflicts with Planned Development District ordinances.
Where provisions of a Planned Development (PD) District ordinance specify architectural or site elements requirements for a project, compliance with provisions of PD District, this division, and the Building Design Guidelines shall be required. Where a conflict between the provisions of the individual ordinances or guidelines exists, the provisions of the PD District ordinance shall control.

(b) Conflicts with other ordinances.
All applicable provisions of the Zoning Ordinance, Subdivision Ordinance, building codes, and other ordinances (except PD District ordinances) shall apply. Where provisions of other ordinances or guidelines conflict with this division or the Building Design Guidelines, the more restrictive provision shall control.

Sec. 62-672 Design standards application and approval.

(a) Application.

(1) Along with the submission of an application for any building permit necessary for the development or redevelopment of property subject to the provisions of this article, the following must also be submitted to evaluate compliance with this division:

a. Calculation of points to be awarded for the project, on a scoring sheet provided by the Chief Building Official, and including an original signature of the architect or other designer certifying its accuracy and completeness;

b. A site plan showing the building footprint and all site elements for which points are to be awarded, in sufficient detail to demonstrate compliance with the Building Design Guidelines;

c. Elevations, drawn to scale, with finishing materials and paint color information indicated; and

d. All other information necessary to demonstrate compliance with the evaluation criteria as indicated on the scoring sheet.

(2) If the applicant has not submitted sufficient information to demonstrate conformance with the required standards, the application may be found to be administratively incomplete and the application will not be further reviewed until complete information is submitted.

(b) Approval process.
The design standards elements application shall be reviewed within 15 business days unless otherwise noted below.

Sec. 62-673 Appeal of interpretation.

The applicant may appeal staff's interpretation of this division by:

(a) Submitting a written request to the Director of Development Services for an appeal of interpretation.

(b) Within 30 days, the Design Review Board will hear the appeal and review all related documentation submitted as part of the design standards application. The applicant may be requested to submit additional information in support of the appeal.

(c) After hearing the appeal, the Design Review Board will issue a final decision of approval or denial. If the Design Review Board denies the appeal, the applicant may appeal the decision to the City Council. The request for appeal must be made in writing within ten days of the Design Review Board's decision, according to the process listed below regarding appeal of decision.

Sec. 62-674 Meritorious exceptions.

(a) It is not the intent of this division to discourage innovation. An architectural and site design that does not conform with the specific requirements of this division, but which has merit by making a positive contribution to the visual environment and which is appropriate to the site and use, may be submitted for consideration as a meritorious exception. Such proposals shall be fairly and seriously considered by the Design Review Board through the approval process outlined below.

(1) An applicant for a meritorious exception shall submit:

a. All items required for the design standards application;

b. A written description of the nature of the meritorious exception and the compelling reasons that prevent the applicant from meeting the minimum standards set forth herein;

c. Color renderings of all elevations; and

d. A three-dimensional rendering of all facades visible from public rights-of-way.

(2) The application for a meritorious exception shall be reviewed by staff and a report of findings shall be prepared and submitted to the Design Review Board. If the applicant disagrees with the decision of the Design Review Board, the applicant may, within 10 days of the Design Review Board action, request in writing to the Director of Development Services that the meritorious exception be appealed to the City Council as outlined below under appeal of decision. Prior to consideration of an application for a meritorious exception, the Design Review Board shall hold a public hearing, with written notice sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within 200 feet of any property affected thereby, not less than ten days before the hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail.

(3) In considering the request, the Design Review Board shall consider the following factors in determining the extent of any meritorious exception granted:

a. The extent to which the application meets other specific standards of this division;

b. The extent to which the application meets the spirit and intent of this division and the Building Design Guidelines through the use of building materials, colors, and facade design to create a building of exceptional quality and appearance;

c. The positive or negative impact of the proposed project on surrounding property use and property values, in comparison to the expected impact of a project, which could be built in conformance with standards of this division and the Building Design Guidelines; and

d. The extent to which the proposed project accomplishes City goals as stated in the comprehensive plan or other approved document.

(4) A meritorious exception shall not be granted to serve as a convenience to the applicant, or for reasons related to economic hardship.

(b) Findings of the Design Review Board shall be incorporated into the official minutes of the Design Review Board meeting at which such meritorious exception is granted.

Sec. 62-675 Limited waivers for expansion or reconstruction.

The Director of Development Services may, upon request by the applicant, authorize a waiver from specific requirements for exterior materials or design, if strict compliance with these standards or the Building Design Guidelines would result in significantly inconsistent appearance between existing and proposed sections of the building. The criteria for review will be the same as those for a meritorious exception, as listed above.

(a) The applicant shall submit detailed information to the Director of Development Services as required above for meritorious exceptions.

(b) The Director of Development Services may, for any reason, refer the request for a waiver to the Design Review Board for a decision according to procedures outlined above for meritorious exceptions.

(c) The applicant may appeal the decision of the Director of Development Services to the Design Review Board according to the procedures outlined above for meritorious exceptions.

(d) The applicant may appeal the decision of the Design Review Board to the City Council according to the procedures outlined below under appeal of decision.

Sec. 62-676 Variances.

(a) When a property owner can show that a strict application of the terms of this division or Building Design Guidelines relating to architectural or site standards will impose upon him unusual and practical difficulties or particular hardship, including instances where an applicant has previously built in strict conformance with approved architectural and site standards plans and such approval was erroneously granted by the Chief Building Official or designee, a variance from the strict application of this division or Building Design Guidelines may be granted by the Design Review Board; provided that:

(1) The variance requested is in harmony with the general purpose and intent of this division and the Building Design Guidelines;

(2) The Board is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate a demonstrable and unusual hardship or difficulty; and

(3) The Board is satisfied that there will be no adverse impact on surrounding property.

(b) The applicant may appeal the decision of the Design Review Board to the City Council according to the procedures outlined below under appeal of decision.

(c) Findings.
Such findings of the Design Review Board, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Design Review Board meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Formal application.
All requested variances from this division shall be made in the form of a formal application prior to consideration by the Design Review Board. Submittal shall be made in the Planning and Development Services Department.

Sec. 62-677 Appeal of Design Review Board decision.

(a) Request by applicant.
If an applicant disagrees with the final decision of the Design Review Board, the applicant may appeal the decision to the City Council. The request for appeal must be made in writing within ten days of the Design Review Board's decision.

(b) City Council review.
Following the filing of a notice of appeal, the City Council shall, within 30 days, conduct a review of the decision of the Design Review Board. In its review of the decision of the Design Review Board, the City Council shall utilize the same criteria set forth for the consideration of the Design Review Board for review.

(c) Failure of City Council to act on appeal of variance decision.
An application for a variance is automatically granted if the City Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sec. 62-678 Permitting and occupancy.

(a) No development permit of any kind shall be issued for any development subject to the provisions of this division or the Building Design Guidelines until an architectural plan, which meets or exceeds the standards set forth herein and in the Building Design Guidelines has been approved by the Chief Building Official or designee according to the procedure for applications listed above.

(b) A certificate of occupancy shall not be issued for any development which is required to meet the provisions of this division and the Building Design Guidelines, unless it is constructed in accordance with the approved architectural and site standards plan.

Sec. 62-679 Noncompliance.

(a) If at any time after the issuance of a certificate of occupancy the building exterior or site is altered in such a manner as to modify any element of the approved architectural and site standards plan, the Chief Building Official shall issue a notice of noncompliance to the owner, citing the violation and describing action required to comply with this division.

(1) The owner, tenant, and/or agent shall, within 30 days of said notice:

a. Submit revised plans, which meet standards outlined in this division and in Building Design Guidelines; or

b. Make reasonable progress toward restoring the building and site to its approved form, or, if no progress can be made within 30 days due to weather or other factors, receive a temporary waiver from the Chief Building Official for this requirement.

(b) If, within 90 days of the date of notice of noncompliance, full restoration in compliance with original or revised and approved plans has not been made, the owner, tenant, and/or agent shall be held in violation of this division.

Division 2. Building Design Guidelines

Sec. 62-680 Intent.

These building design guidelines are intended to:

(a) Showcase and preserve Bryan's unique identity;

(b) Help buildings function better in Bryan's environment;

(c) Create buildings with appropriate human scale;

(d) Ensure that buildings contribute to the vitality of Bryan's entrances and main corridors;

(e) Increase the quality, adaptability, and sustainability of Bryan's building stock;

(f) Apply to all new commercial structures and certain commercial structures under rehabilitation, situated within 200 feet or the depth of the abutting lot, whichever is less, on either side of the street right-of-way along the following thoroughfares:

(1) Texas Avenue
(2) William Joel Bryan Parkway
(3) Boonville Road
(4) F.M. 158
(5) Harvey Mitchell Parkway/F.M. 2818
(6) Earl Rudder Freeway/State Highway 6
(7) S. College Avenue/State Highway 308
(8) E. 29th Street
(9) Villa Maria Road
(10) Beck Street
(11) State Highway 21
(12) F.M. 1179
(13) Briarcrest Drive
(14) State Highway 47
(15) Wellborn Road
(16) College Main Street
(17) Tabor Road/F.M. 974
(18) University Drive East/State Highway 60
(19) Leonard Road
(20) Groesbeck Street

(21) S. Bryan Avenue

(22) 800 block of S. Sims Avenue

(23) 800 – 1100 blocks of S. Main Street

Sec. 62-681 Best Practices.

(a) Projects should be compatible with the scale of adjacent and nearby actual and anticipated development and should provide a sensitive transition to more restrictive zoning districts.

(b) New buildings proposed in areas that have a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of nearby buildings as well as the spatial characteristics of the right-of-way. New buildings proposed in other areas should reinvigorate the area by introducing more desirable features. Features that can be used to integrate new buildings include fenestration patterns, building proportions, roof forms or building materials.

(c) Building design elements, details, and massing should create a well-proportioned and unified building form and exhibit an overall architectural concept. Buildings should exhibit form and features identifying the functions within the building with elements and details to achieve a good human scale.

(d) Building exteriors should be constructed of durable and maintainable materials that are attractive even when viewed up close. Materials that have texture, pattern, and lend themselves to a high quality of detailing are encouraged. Buildings should avoid large blank walls facing the street.

(e) Convenient, identifiable and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be sufficiently lighted and entry areas should be protected from the weather. Opportunities for creating lively, pedestrian-oriented open space should be considered, especially along the street edge.

(f) Site design should consider opportunities for enhancing personal safety and security, including providing adequate lighting and minimizing visual clutter. Buildings should avoid large blank walls lacking design features, but should preferably allow for visual connection between activities occurring on the interior and exterior of the building.

(g) Where possible, landscaping should reinforce the character of the development and abutting streetscape while enhancing the architecture of the building project. Possibilities include special pavements, trellises, screen walls, fountains, planters and site furniture.

Sec. 62-682 Building Frontages.

(a) Applicability.
This section is applicable to any publicly visible building frontage of any commercial land use on any thoroughfare referenced in Sec. 62-680(f). Building facades adjoining other buildings (attached to more than 50% of the sidewall) are exempt.

(b) Exterior colors.
Please refer to Division 3 for colors permitted on exterior facades of commercial structures.

(c) Fabric awnings.
If used, fabric awnings must be composed of fabric that is guaranteed by the manufacturer to survive in good condition for no less than 10 years from the date of installation.

(d) Shade and shelter.

Bryan's climate requires shade and shelter amenities in order to accommodate and promote pedestrian activity, as well as protect pedestrians from inclement weather. Projects shall meet the following shade and shelter requirements:

Figure 1: Example of awning at building entrance

(1) If provided, at least one ADA ramp alongside the building must be shaded to a minimum of 2 times the width (as determined by a ramp user) of the contiguous lineal ramp section closest to the building. If a rear ADA ramp is also provided as part of the building design, it shall also meet the requirements of this section. Such shade devices shall have a maximum canopy height of 15 feet.

(2) Principal building entrances shall be located under a shade device such as a building projection or recess in building face with a minimum depth of 6 feet and maximum canopy height of 20 feet.

(e) Glazing on building facades.

Glazing provides interest for the passer-by, connects the building exterior and interior, puts eyes on the street, promotes reusability, and provides a human-scale element on building facades.

(1) Any façade that is built up to an interior mid-block property line is not required to have glazing on that façade, if no prohibitions and no contractual or legal impediments exist that would prevent a building being constructed on the adjacent property up to the wall of the façade ("zero lot line" structures).

(2) At least one-third of the total area of all glazing on ground-floor facades that face the principal street shall have a Visible Transmittance (VT) of 0.4 or higher.

(3) Walls that must be blank for security or other requirements shall be enhanced by the use of plant materials, artwork, canopies, special lighting, or a combination of façade articulation and material changes. Any such alternative plans must be approved by the Design Review Board. Plans submitted for consideration must be sealed by a registered architect or landscape architect, as appropriate, and show reasonable evidence that the requirements set forth in these standards were used as a guide. Evidence of security requirements should be submitted as listed in state or federal law.

Sec. 62-683 Options to Improve Building Design.

(a) Applicability.

This section is applicable to the development of any commercial use that requires a building permit or is converted to commercial use on any thoroughfare referenced in Sec. 62-680(f). Buildings of 5,000 square feet or more are required to meet a higher point minimum than those of 4,999 square feet or less.

(b) Building design options.

(1) General requirement.

a. Each building of 4,999 square feet or less subject to this section must earn one base point from the table below, and may be required to earn additional points if certain design parameters are present.

b. Each building of 5,000 square feet or more subject to this section must earn four base points from the table below, and may be required to earn additional points if certain design parameters are present.

c. Developments with multiple buildings are required to earn the applicable number of points for each building.

(2) Additional requirements for certain types of development.
The following shall earn points as specified below, in addition to the base points required in Sec. 62-683(b)(1). All points in this section shall be earned cumulatively.

a. If the building plan depicts any of the design parameters listed below, an additional point must be earned for each design feature (except as noted):

1. Building façade exceeds 200 feet in width without entrances at least every 50 feet.

2. Individual use is greater than 50,000 square feet.

3. Building is a pad-site building with either of the following features:

(i) Drive-in or drive-through; and/or

(ii) Building is separated from other buildings by surface parking on at least two sides.

4. Concrete block (not including decorative concrete block) is used on more than 25% of a façade visible to the public.

5. Concrete block (not including decorative concrete block) is used on more than 75% of a façade visible to the public (must earn two additional points).

6. EIFS is used as a wall system (not including heavy foam moldings) on the ground floor below 10 feet.

7. Typical pre-engineered metal building wall panels such as "R" or "M" panels are used on more than 20% of a façade visible to the public (must earn two additional points).

(3) Table of design options.

Option	Description / Comments
Group A: Each option worth 1 point	
Provide for liner stores in building façade (1 point each).	A liner store is a commercial use on the ground floor of a building located not more than 30 feet from the street right-of-way with an entrance facing the street.
Provide façade articulation through one method listed below, for at least two facades of the building. May gain up to two points through these methods.	See Sec. 62-683(b)(4)a.

Option	Description / Comments
Provide primary entrance design.	See Sec. 62-683(b)(4)b.
Provide building materials from set "B" below for 60% or more of 3 most visible building facades, not including window or door area.	See Sec. 62-683(b)(4)d.
Provide shelter integrated into building form alongside at least 20% of all building frontages adjacent to or facing the principal street or adjacent parking with maximum canopy height of 15 feet.	
Provide glazing on at least 20% of wall area between two and ten feet above grade on first floor, for at least two facades of the building.	
100% of glazing on ground-floor facades that face any street or parking lot have a Visible Transmittance (VT) of 0.4 or higher.	
Group B: Each option worth 3 points	
Provide building materials from set "A" below for 60% or more of 3 most visible building facades, not including window or door area.	See Sec. 62-683(b)(4)d.
Provide glazing on at least 40% of wall area between two and ten feet above grade on first floor, for at least two facades of the building.	
Design building so that at least 75% of the façade facing the principal street consists of storefronts with at least two separate entrances facing the principal street.	See Sec. 62-682(d) for entrance area requirements.
Provide shelter integrated into building form alongside at least 40% of all building frontages adjacent to or facing the principal street or adjacent parking with maximum canopy height of 15 feet.	
Provide a sustainable roof.	See Sec. 62-683(b)(4)c.
Integrate onsite renewable energy into building design.	The specific features and design shall be approved by the Director of Planning and Development Services. Examples may include, but are not limited to, rooftop solar panels or biomass boilers.

(4) Definitions of options.

a. Façade articulation.

For purposes of satisfying the requirements in Sec. 62-683(b)(1) and Sec. 62-683(b)(2), "façade articulation" shall consist of one of the following design features:

1. Changes in plane with a depth of at least 24 inches, either horizontally or vertically, at intervals of not less than 20 feet and not more than 60 feet;
2. Changes of texture or material, either horizontally or vertically, at intervals of not less than 20 feet and not more than 60 feet;
3. A repeating pattern of wall recesses and projections, such as bays, offsets, reveals or projecting ribs, that has a relief of at least eight inches.

Figure 2: Examples of façade articulation

b. Primary entrance design.

For purposes of satisfying the requirements in Sec. 62-683(b)(1) and Sec. 62-683(b)(2), "primary entrance design" shall consist of at least 3 of the following design elements at the primary entrance, so that the primary entrance is architecturally prominent and clearly visible from the abutting street:

1. Architectural details such as arches, friezes, tile work, murals, or moldings.
2. Integral planters or wing walls that incorporate landscape or seating.
3. Enhanced exterior light fixtures such as wall sconces, light coves with concealed light sources, ground-mounted accent lights, or decorative pedestal lights.
4. Prominent three-dimensional features, such as belfries, chimneys, clock towers, domes, spires, steeples, towers, or turrets.
5. A repeating pattern of pilasters projecting from the façade wall by a minimum of eight inches or architectural or decorative columns.

Figure 2: Example of a sustainable roof

c. Sustainable roof.
For purposes of satisfying the requirements of Sec. 62-683(b)(1) and Sec. 62-683(b)(2), a "sustainable roof" is roofing that has one of the following:

1. For a minimum of 75% of the total roof surface, a Solar Reflectance Index (SRI) of 78 or higher for a roof with a slope of 2:12 or less, or 29 or higher for a roof with a slope greater than 2:12; or
2. For a minimum of 50% of the total roof surface, a vegetated roof;
3. For a minimum of 50% of the total roof surface, rainwater collection system, connected to irrigation system or other building system through piping; or
4. For a minimum of 75% of the total roof surface, a combination of a vegetated roof with rainwater collection system and SRI-compliant roof meeting the SRI standards listed in Sec. 62-683(b)(4)c.1.

d. Building materials.
For purposes of satisfying the requirements in Sec. 62-683(b)(1) and Sec.62-683(b)(2), "building materials" are defined as:

1. Set "A" materials: natural stone, unpainted brick, 3-step hard coat cementitious stucco, unpainted integrally colored decorative concrete block, tile, composite metal panels, or smooth zinc panels.
2. Set "B" materials: cementitious siding, decorative exposed concrete, or wood
3. Other high-quality, low maintenance materials, or those materials that may be introduced in the future, may be considered based on architectural creativity by the Design Review Board.

(c) Alternatives to the building design options of Sec. 62-683(b).

(1) Large single-story buildings.
Instead of complying with Sec. 62-683(b), a single-story commercial building that is 50,000 square feet or more in size may elect as a matter of right to comply with the following standards as a set:

a. The building façade shall consist of 60% masonry or stucco (not including standard cement utility blocks), excluding the window area and rear service area on sides visible to the public;

b. The building meets the "façade articulation" requirements as defined above;

c. The building has 30% glazing on the front façade and 20% glazing on each side visible to the public with a Visible Transmittance (VT) of 0.4 or higher; and

d. The building design incorporates a sustainable roof, solar power generation, or similar feature.

(2) Pad-site buildings with drive-in and/or drive-through services.
Instead of complying with Sec. 62-683(b), a pad-site building with a drive-in and/or drive-through services on a freeway or arterial street, may comply with the following standards as a set:

a. The portion of the building below 12 feet consists of one of the following:

1. Any of the materials mentioned in Sec. 62-683(b)(4)d; or

2. For a building that occupies a pad or portion of a building within a planned project or shopping center, the building has similar design characteristics as the rest of the shopping center. This includes use of similar materials, patterns, rhythms, and proportions to the rest of the center.

b. Pad sites shall not have any parking located between the building and the principal street.

Division 3. Building Color

Sec. 62-684 Scope and Purpose.

(a) Purpose.

The purpose of this division is to establish an exterior color palette for commercial buildings, which is recognized as enhancing property values and is in the interest of the general welfare of the City.

(b) Scope and enforcement.

(1) The provisions of this division shall be administered by the Director of Planning and Development Services or designee.

(2) The standards and criteria contained within this section and the approved commercial color palette are deemed to be minimum standards and shall apply to all nonresidential buildings within the City, with the exceptions listed below.

(3) All commercial building facades and roofs shall consist of only colors from the color palette approved by the City Council, as may be amended by the Design Review Board, and maintained in the Planning and Development Services Department. All other colors shall be limited to accent colors and may be used on a percentage of the façade as determined below:

a. For any commercial building of 49,999 square feet or less, accent colors may be used on no greater than 15% of the façade on which the accent color is applied.

b. For any commercial building of 50,000 square feet up to 149,999 square feet, accent colors may be used on no greater than 10% of the façade on which the accent color is applied.

c. For any commercial building of 150,000 square feet or greater, accent colors may be used on no greater than 5% of the façade on which the accent color is applied.

(4) When utilizing brick, colors normally found in manufactured fired brick are permitted. All colors of natural stone are permitted.

(5) After February 2, 2015, when any color change is proposed on the exterior of any existing commercial building, color samples shall be submitted for approval and the complete exterior color palette of that building shall be brought into compliance with this ordinance.

(6) Existing commercial buildings may continue to utilize colors in a manner not allowed by the provisions of this division provided that repainting is done for maintenance purposes only and the existing color is continued.

(7) Provisions of this division or the Building Design Guidelines shall <u>not</u> apply to the following:

a. Single family, two-family (duplex), or multi-family residential construction;

b. Structures in historic preservation or other overlay districts, if applicable design standards already exist for those districts and a conflict exists between those standards and this division; or

c. Temporary uses lasting no longer than six months.

Sec. 62-685 Conflicts.

(a) Conflicts with Planned Development District ordinances.
Where provisions of a Planned Development (PD) District ordinance specify exterior color requirements for a project, provisions of the PD District control. Where a PD District ordinance does not address exterior color requirements for a project, this division shall control.

(b) Conflicts with other ordinances.
All applicable provisions of the Zoning Ordinance, Subdivision Ordinance, building codes, and other ordinances shall apply. Unless exempted by Sec. 62-684(b)(7) when provisions of other ordinances or guidelines conflict with this division or the approved commercial color palette, the more restrictive provision shall control.

62-686 Commercial building colors application and approval.

(a) Application.

(1) Along with the submission of an application for any building permit necessary for the development or redevelopment of property subject to the provisions of this article, the following must also be submitted to evaluate compliance with this division:

a. A site plan showing the building footprint and all site elements in sufficient detail to demonstrate compliance with this division;

b. Sample building materials and color details (including color samples);

c. A table of vertical square footage and percentage of each building material or paint color for each facade; and

d. All other information necessary to demonstrate compliance this division.

(2) If the applicant has not submitted sufficient information to demonstrate conformance with the required standards, the application may be found to be administratively incomplete and the application will not be further reviewed until complete information is submitted.

(b) Approval process.
The design standards elements application shall be reviewed within 15 business days unless otherwise noted below.

Sec. 62-687 Variances.

(a) When a property owner can show that a strict application of the terms of this division will impose upon him unusual and practical difficulties or particular hardship, including instances where an applicant has previously utilized exterior building colors in strict conformance with approved architectural and site standards plans and such approval was erroneously granted by the Director of Planning and Development Services or designee, a variance from the strict application of this division may be granted by the Design Review Board; provided that:

(1) The variance requested is in harmony with the general purpose and intent of this division and the approved commercial color palette;

(2) For franchises or chains, the applicant demonstrates that:

a. The applicant is an established franchise or chain;

b. The proposed colors or materials are part of its corporate branding; and

c. The applicant provides all of the alternative color or material schemes the franchise or chain has used previously.

(3) The Design Review Board is satisfied that a granting of such variance will not merely serve as a convenience to the applicant, but will alleviate a demonstrable and unusual hardship or difficulty; and

(4) The Design Review Board is satisfied that there will be no adverse impact on surrounding property.

(b) The applicant may appeal the decision of the Design Review Board to the City Council according to the procedures outlined below under appeal of decision.

(c) Findings.
Such findings of the Design Review Board, together with the specific facts upon which findings are based, shall be incorporated into the official minutes of the Design Review Board meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this division. Pecuniary hardship to the developer, standing alone, shall not be deemed to constitute undue hardship.

(d) Formal application.
All requested variances from this division shall be made in the form of a formal application prior to consideration by the Design Review Board. Submittal shall be made in the Planning and Development Services Department.

Sec. 62-688 Appeal of Staff interpretation.

An applicant may appeal staff's interpretation of this division by:

(a) Submitting a written request to the Director of Development Services for an appeal of interpretation.

(b) Within 30 days, the Design Review Board will hear the appeal and review all related documentation submitted as part of the building color application. The applicant may be requested to submit additional information in support of the appeal.

(c) After hearing the appeal, the Design Review Board will issue a final decision of approval or denial. If the Design Review Board denies the appeal, the applicant may appeal the decision of the Design Review Board to the City Council. The request for appeal must be made in writing within ten days of the Design Review Board's decision, according to the process listed below regarding appeal of decision.

Sec. 62-689 Appeal of Design Review Board decision.

(a) Request by applicant.
If applicant disagrees with the final decision of the Design Review Board, the applicant may appeal the decision to the City Council. The request for appeal must be made in writing within ten days of the Design Review Board's decision.

(b) City Council review.
Following the filing of a notice of appeal, the City Council shall, within 30 days, conduct a review of the decision of the Design Review Board. In its review of the decision of the Design Review Board, the City Council shall utilize the same criteria set forth for the consideration of the Design Review Board for review.

(c) Failure of City Council to act on appeal of variance decision.
An application for a variance is automatically granted if the City Council does not act on the variance appeal before the 46th day after the date the notice of appeal is filed. The applicant for the variance may waive the time deadline established by this subsection.

Sec. 62-690 Permitting and occupancy.

(a) No building permit shall be issued for any development subject to the provisions of this division until color samples, which meet or exceed the standards set forth herein have been approved by the Director of Planning and Development Services.

(b) A certificate of occupancy shall not be issued for any development which is required to meet the provisions of this article, unless it is constructed in accordance with the requirements of this division.

Sec. 62-691 Noncompliance.

If at any time after the issuance of a certificate of occupancy the building exterior or site is altered in such a manner as to utilize colors in a manner not allowed by this division, the designee of the Director of Planning and Development Services shall issue a notice of noncompliance to the owner, citing the violation and describing action required to comply with this division.

(a) The owner, tenant, and/or agent shall, within 30 days of said notice:

(1) Submit revised exterior building color samples and plans, which meet standards outlined in this division; or

(2) Make reasonable progress toward restoring the building and site to its approved form, or, if no progress can be made within 30 days due to weather or other factors, receive a waiver from the Director of Development Services for this requirement.

(b) If, within 90 days of the date of notice of noncompliance, full restoration in compliance with original or revised and approved plans has not been made, the owner, tenant, and/or agent shall be held in violation of this division.

Sec. 62-692 Commercial Color Palette.

(a) All standard colors from the Sherwin Williams color palette, or their match in other paint company palettes, not listed as limited colors below are considered as approved commercial color palette options.

(b) Limited Colors.
The following colors may only be used on 5-15% of the building façade, depending on the building size.

Color Strip Number	Color Name	Paint Number
81	Venus Pink	6560
81	Teaberry	6561
81	Irresistible	6562
81	Rosebay	6563
81	Red Clover	6564
81	Grandeur Plum	6565
81	Framboise	6566
82	Anemone	6567

Color Strip Number	Color Name	Paint Number
82	Lighthearted Pink	6568
82	Childlike	6569
82	Haute Pink	6570
82	Cyclamen	6571
82	Ruby Shade	6572
82	Juneberry	6573
83	Rosily	6574
83	Priscilla	6575

Color Strip Number	Color Name	Paint Number
83	Azalea Flower	6576
83	Jaipur Pink	6577
83	Tuberose	6578
83	Gala Pink	6579
83	Cerise	6580
84	Verbena	6581
84	Impatiens Petal	6582
84	In the Pink	6583
84	Cheery	6584
84	Coming up Roses	6585
84	Heartfelt	6586
84	Valentine	6587
85	Diminutive Pink	6588
85	Alyssum	6589
85	Loveable	6590
85	Amaryllis	6591
85	Grenadine	6592
85	Coral Bells	6593
85	Poinsettia	6594
86	Amour Pink	6595
86	Bella Pink	6596
86	Hopeful	6597
86	Dishy Coral	6598
86	Begonia	6599
86	Enticing Red	6600
86	Tanager	6601
87	Angelic	6602
87	Oleander	6603
87	Youthful Coral	6604
87	Charisma	6605
87	Coral Reef	6606
87	Red Tomato	6607
87	Rave Red	6608
88	Touching White	6609
88	Koral Kicks	6610
88	Jovial	6611
88	Ravishing Coral	6612
88	Lei Flower	6613
88	Quite Coral	6614
88	Peppery	6615
89	Feather White	6616
89	Blushing	6617
89	Cosmetic Peach	6618
89	Sockeye	6619
89	Rejuvenate	6620
89	Emotional	6621
89	Hearty Orange	6622

Color Strip Number	Color Name	Paint Number
90	Teasing Peach	6623
90	Peach Blossom	6624
90	Certain Peach	6625
90	Sunset	6626
90	Emberglow	6627
90	Robust Orange	6628
91	Posy	6630
91	Naïve Peach	6631
91	Neighborly Peach	6632
91	Inventive Orange	6633
91	Copper Harbor	6634
91	Determined Orange	6635
92	Organza	6637
92	Flattering Peach	6638
92	Avid Apricot	6639
92	Tangerine	6640
92	Outgoing Orange	6641
92	Rhumba Orange	6642
92	Yam	6643
93	Champagne	6644
93	Frangipane	6645
93	Orange Blast	6646
93	Exciting Orange	6647
93	Kumquat	6648
93	Tango	6649
93	Marquis Orange	6650
94	Cherish Cream	6651
94	Flan	6652
94	Delicious Melon	6653
94	Surprise Amber	6654
94	Adventure Orange	6655
94	Serape	6656
94	Amber Wave	6657
95	Welcome White	6658
95	Captivating Cream	6659
95	Honey Blush	6660
95	Papaya	6661
95	Summer Day	6662
95	Saffron Thread	6663
95	Marigold	6664
96	Gardenia	6665
96	Enjoyable Yellow	6666
96	Afterglow	6667
96	Sunrise	6668
96	Yarrow	6669
96	Gold Crest	6670
96	Curry	6671

Color Strip Number	Color Name	Paint Number
97	Morning Sun	6672
97	Banana Cream	6673
97	Jonquil	6674
97	Afternoon	6675
97	Butterfield	6676
97	Goldenrod	6677
97	Sunflower	6678
98	Full Moon	6679
98	Friendly Yellow	6680
98	Butter Up	6681
98	June Day	6682
98	Bee	6683
98	Brittlebrush	6684
98	Trinket	6685
99	Lemon Chiffon	6686
99	Lantern Light	6687
99	Solaria	6688
99	Overjoy	6689
99	Gambol Gold	6690
99	Glitzy Gold	6691
99	Auric	6692
100	Lily	6693
100	Glad Yellow	6694
100	Midday	6695
100	Quilt Gold	6696
100	Nugget	6697
100	Kingdom Gold	6698
100	Crispy Gold	6699
101	Daybreak	6700
101	Moonraker	6701
101	Lively Yellow	6702
101	Frolic	6703
101	Hep Green	6704
101	High Strung	6705
101	Offbeat Green	6706
102	Narcissus	6707
102	Springtime	6708
102	Gleeful	6709
102	Mélange Green	6710
102	Parakeet	6711
102	Luau Green	6712
102	Verdant	6713
103	Citrine	6714
103	Lime Granita	6715
103	Dancing Green	6716
103	Lime Rickey	6717
103	Overt Green	6718

Color Strip Number	Color Name	Paint Number
103	Gecko	6719
103	Paradise	6720
104	Enlighted Lime	6721
104	Cucumber	6722
104	Jardin	6723
104	Mesclun Green	6724
104	Pickle	6725
104	Tailpot Palm	6726
104	Houseplant	6727
105	White Willow	6728
105	Lacewing	6729
105	Romaine	6730
105	Picnic	6731
105	Organic Green	6732
105	Grasshopper	6733
105	Espalier	6734
106	Minted	6735
106	Jocular Green	6736
106	Kiwi	6737
106	Vegan	6738
106	Eco Green	6739
106	Kilkenny	6740
106	Derbyshire	6741
107	Lighter Mint	6742
107	Mint Condition	6743
107	Reclining Green	6744
107	Lark Green	6745
107	Julep	6746
107	Argyle	6747
107	Greens	6748
108	Embellished Blue	6749
108	Waterfall	6750
108	Refresh	6751
108	Larchmere	6752
108	Jargon Jade	6753
108	Ionian	6754
108	Starboard	6755
109	Crystal Clear	6756
109	Tame Teal	6757
109	Aqueduct	6758
109	Cooled Blue	6759
109	Rivulet	6760
109	Thermal Spring	6761
109	Poseidon	6762
110	Retiring Blue	6763
110	Swimming	6764
110	Spa	6765

Color Strip Number	Color Name	Paint Number
110	Mariner	6766
110	Aquarium	6767
110	Gulfstream	6768
110	Maxi Teal	6769
111	Bubble	6770
111	Bathe Blue	6771
111	Cay	6772
111	Rapture Blue	6773
111	Freshwater	6774
111	Briny	6775
111	Blue Nile	6776
112	Carefree	6777
112	Aviary Blue	6778
112	Liquid Blue	6779
112	Nautilus	6780
112	Jamaica Bay	6781
112	Cruising	6782
112	Amalfi	6783
113	Bravo Blue	6784
113	Quench Blue	6785
113	Cloudless	6786
113	Fountain	6787
113	Capri	6788
113	Blue Mosque	6789
113	Adriatic Sea	6790
114	Lauren’s Surprise	6791
114	Minor Blue	6792
114	Bluebell	6793
114	Flyway	6794
114	Major Blue	6795
114	Blue Plate	6796
114	Jay Blue	6797
115	Iceberg	6798
115	Soar	6799
115	Something Blue	6800
115	Regale Blue	6801
115	Jacaranda	6802
115	Danube	6803
115	Dignity Blue	6804
116	Glass Bead	6805
116	Rhythmic Blue	6806
116	Wondrous Blue	6807
116	Celestial	6808
116	Lobelia	6809
116	Lupine	6810
116	Honorable Blue	6811
117	White Iris	6812

Color Strip Number	Color Name	Paint Number
117	Wishful Blue	6813
117	Breathtaking	6814
117	Awesome Violet	6815
117	Dahlia	6816
117	Gentian	6817
117	Valiant Violet	6818
118	Minuet White	6819
118	Inspired Lilac	6820
118	Potentially Purple	6821
118	Wisteria	6822
118	Brave Purple	6823
118	Forget-Me-Not	6824
118	Izmir Purple	6825
119	Whimsical White	6826
119	Elation	6827
119	Rhapsody Lilac	6828
119	Magical	6829
119	Kismet	6830
119	Clematis	6831
119	Impulsive Purple	6832
120	White Lilac	6833
120	Spangle	6834
120	Euphoric Lilac	6835
120	Novel Lilac	6836
120	Baroness	6837
120	Vigorous Violet	6838
120	Kimono Violet	6839
121	Exuberant Pink	6840
121	Dynamo	6841
121	Forward Fuschia	6842
121	Hot	6843
121	Eros Pink	6860
121	Radish	6861
121	Cherries Jubilee	6862
121	Lusty Red	6863
122	Merry Pink	6844
122	Child’s Play	6845
122	Prominent Pink	6846
122	Ice Plant	6847
122	Panache Pink	6848
122	Partytime	6849
122	Vivacious Pink	6850
122	Hibiscus	6851
123	Desire Pink	6852
123	Fussy Pink	6853
123	Impatient Pink	6854
123	Dragon Fruit	6855

Color Strip Number	Color Name	Paint Number
123	Reverie Pink	6856
123	Pink Moment	6857
123	Zany Pink	6858
123	Feverish Pink	6859
124	Cherry Tomato	6864
124	Gypsy Red	6865
124	Heartthrob	6866
124	Fireworks	6867
124	Real Red	6868
124	Stop	6869
124	Ablaze	6870
124	Positive Red	6871
125	Gaiety	6872
125	Coral Bead	6873
125	Ardent Coral	6874
125	Gladiola	6875
125	Comical Coral	6876
125	Inner Child	6877
125	Animated Coral	6878
125	Daring	6879
126	Energetic Orange	6880
126	Cayenne	6881
126	Daredevil	6882
126	Raucous Orange	6883
126	Obstinate Orange	6884
126	Knockout Orange	6885
126	Invigorate	6886
126	Navel	6887
127	Pizzazz Peach	6888
127	Stirring Orange	6889
127	Osage Orange	6890
127	Mandarin	6891
127	Solé	6896
127	Sundance	6897
127	Social Butterfly	6898
127	Nasturtium	6899
128	Carnival	6892
128	Kid’s Stuff	6893
128	Forceful Orange	6894
128	Laughing Orange	6895
128	Gusto Gold	6904
128	Goldfinch	6905
128	Citrus	6906
128	Forsythia	6907
129	Optimistic Yellow	6900
129	Daffodil	6901
129	Decisive Yellow	6902

Color Strip Number	Color Name	Paint Number
129	Cheerful	6903
129	Fun Yellow	6908
129	Lemon Twist	6909
129	Daisy	6910
129	Confident Yellow	6911
130	Glisten Yellow	6912
130	Funky Yellow	6913
130	Eye Catching	6914
130	Citronella	6915
130	Impetuous	6916
130	Nervy Hue	6917
130	Humorous Green	6918
130	Fusion	6919
131	Center Stage	6920
131	Electric Lime	6921
131	Outrageous Green	6922
131	Festival Green	6923
131	Direct Green	6924
131	Envy	6925
131	Lucky Green	6926
131	Greenbelt	6927
132	Green Vibes	6928
132	Witty Green	6929
132	Laudable Lime	6930
132	Jolly Green	6931
132	Spirited Green	6932
132	Clean Green	6933
132	Rally Green	6934
132	Straightforward Green	6935
133	Aquatint	6936
133	Tantalizing Teal	6937
133	Synergy	6938
133	Turquish	6939
133	Workout Green	6984
133	Green Jewel	6985
133	Active Green	6986
133	Jitterbug Jade	6987
134	Biscay	6940
134	Nifty Turquoise	6941
134	Splashy	6942
134	Intense Teal	6943
134	Pool Blue	6944
134	Belize	6945
134	Surfer	6946
134	Tempo Teal	6947
135	Blue Bauble	6948

Color Strip Number	Color Name	Paint Number
135	Slick Blue	6949
135	Calypso	6950
135	Cote D' Azur	6951
135	Blue Click	6952
135	Candid Blue	6953
135	Resonant Blue	6954
135	Impromptu	6955
136	Blue Refrain	6956
136	Undercoat	6957
136	Dynamic Blue	6958
136	Blue Chip	6959
136	Pulsating Blue	6964
136	Hyper Blue	6965
136	Blueblood	6966
136	Frank Blue	6967
137	Bewitching Blue	6960
137	Blue Beyond	6961
137	Dazzle	6962
137	Sapphire	6963
137	Hyacinth Tint	6968
137	Indulgent	6969
137	Venture Violet	6970
137	Morning Glory	6971
138	Joyful Lilac	6972
138	Free Spirit	6973
138	Plum Blossom	6974
138	Lavish Lavender	6975
138	Vanity Pink	6976
138	Queenly	6977
138	Drama Violet	6978
138	Verve Violet	6979
139	Gutsy Grape	6980
139	Passionate Purple	6981
139	African Violet	6982
139	Fully Purple	6983
140	Chelsea Mauve	2
140	Queen Anne Lilac	21
140	Cabbage Rose	3
140	Pewter Tankard	23
140	Mulberry Silk	1
140	Rose Brocade	4
140	Patchwork Plum	22
140	Deepest Mauve	5
141	Crewel Tan	11
141	Wickerwork	10
141	Curio Gray	24
141	Empire Gold	12

Color Strip Number	Color Name	Paint Number
141	Eastlake Gold	9
141	Decorous Amber	7
141	Cajun Red	8
141	Toile Red	6
142	Festoon Aqua	19
142	Calico	17
142	Peacock Plume	20
142	Teal Stencil	18
142	Majolica Green	13
142	Sheraton Sage	14
142	Gallery Green	15
142	Billiard Green	16
143	Porcelain	53
143	Classic Light Buff	50
143	Classic Ivory	51
143	Classic Sand	56
143	Twilight Gray	54
143	Pearl Gray	52
143	Silver Gray	49
143	Light French Gray	55
144	Indian White	35
144	Buckram Binding	36
144	Ruskin Room Green	42
144	Peristyle Brass	43
144	Morris Room Grey	37
144	Roycroft Adobe	40
144	Rembrandt Ruby	33
144	Antiquarian Brown	45
145	White Hyacinth	46
145	Hubbard Squash	44
145	Roycroft Rose	34
145	Portrait Tone	39
145	Library Pewter	38
145	Studio Blue Green	47
145	Bunglehouse Blue	48
145	Dard Hunter Green	41
146	Caen Stone	28
146	Colonial Yellow	30
146	Aristocrat Peach	27
146	Rachel Pink	26
146	Rosedust	25
146	Acanthus	29
146	Dutch Tile Blue	31
146	Needlepoint Navy	32
147	Jazz Age Coral	58
147	Studio Mauve	62

Color Strip Number	Color Name	Paint Number
147	Frostwork	59
147	Blue Sky	63
147	Salon Rose	61
147	Alexandrite	60
147	Blue Peacock	64
147	Chinese Red	57
148	Belvedere Cream	67
148	Rose Tan	69
148	Pink Shadow	70
148	Orchid	71
148	Copen Blue	68
148	Cascade Green	66
148	Vogue Green	65
148	Deep Maroon	72
149	Sunbeam Yellow	78
149	Apple blossom	76
149	Pinky Beige	79
149	Chartreuse	73
149	Holiday Turquoise	75
149	Radiant Lilac	74
149	Classic French Gray	77
149	Pink Flamingo	80
A	Bohemian Black	6988
A	Domino	6989
A	Caviar	6990
A	Tricorn Black	6258
A	Black Magic	6991
A	Inkwell	6992
A	Black of Night	6993
A	Greenblack	6994

Sections 62-693-62-697. Reserved.

Article XI. "Compliance and Enforcement"

Sec. 62-698 Generally.

(a) Court action.
On behalf of the City, the City Attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provision of this chapter or the standards referred to herein with respect to any violation thereof which occurs within the City.

(b) Notice of alleged violation.
Whenever the City Manager or his or her designee determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, he or she shall give notice of such alleged violation to the person to whom the permit or license was issued, as herein provided. Such notice shall:

(1) Be in writing.

(2) Include a statement of the reason for its issue.

(3) Allow a reasonable time for the performance of the act if required.

(4) Be served upon the owner or his or her agent as the case may require, provided that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any method authorized or required by the laws of this state.

(5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this section.

(c) Reinspection.
At the end of such period as noted in Sec. 62-698(b), the City Manager or his or her designee shall reinspect the site and, if such conditions or practices have not been corrected they shall suspend any permits or certificates and give notice of such suspension, and such person shall cease activities.

Sec. 62-699 Penalties.

Any person violating any provision of this chapter, upon conviction, is punishable in accordance with the general penalty provisions of City Code Sec. 1-14.

3.

That the entire text of Chapter 130, Zoning Ordinance is hereby repealed and replaced to read as follows:

Chapter 130 – "Zoning Ordinance"

Article 1. "In General"

Sec. 130-1 Enacting clause.
That this Comprehensive Zoning Ordinance, also known as the "Zoning Ordinance," of the City, is passed and approved on December 11, 1989, together with the official zoning map to read as set out herein.

Sec. 130-2 Purpose.

The zoning regulations and districts as herein established have been made in accordance with adopted guiding principles for the purpose of promoting the health, safety, morals, and general welfare of the City. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic, and other dangers; to ensure adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district, and its suitability and compatibility for the particular uses specified; and with a view to conserving the value of buildings and neighborhoods, and encouraging the most appropriate use of land throughout the City. *(Code 1988, App. A, §2; Ord. No. 1468, §2, 4-27-2004)*

Sec. 130-3 Definitions.

The following words, terms and phrases, when used in this chapter or when used in Chapter 62 (Land and Site Development Ordinance), shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words and terms that are not expressly defined in this chapter or in Chapter 62 have their ordinary dictionary meanings, based on the latest edition of Merriam-Webster's Unabridged Dictionary. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural; and words used in the plural number include the singular.

Accessory dwelling unit shall mean a subordinate structure located on the same lot or parcel as the main structure which is incidental to the main use of the structure and is used as a residence.

Accessory structure shall mean a subordinate structure or a portion of the main structure located on the same lot as the main structure, the use of which is incidental to that of the dominant use of the structure or premises. Accessory structures may include parking garages, adjacent farm structures, home workshops and toolhouses, storage sheds, home greenhouses. Carports as defined by this chapter are not considered to be accessory structures.

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

Adult entertainment means a group of land uses involved in providing entertainment or amusement to a person or persons, such a type of land use being an adult arcade, adult bookstore, adult cabaret, adult escort agency, adult massage establishment, adult motel, adult movie theater, adult novelty store, adult service establishment, adult video store, sex parlor, sexual encounter center nude modeling studio, or other adult entertainment uses. "Other adult entertainment use" also includes any other commercial enterprise, that has as a primary business purpose of offering of a service or the selling, renting or exhibiting of material, devices or any other items, intended to provide sexual stimulation or sexual gratification to its customers, and which material, devices or any other items is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity. The following definitions for various types of adult entertainment uses shall be applicable:

1. "*Primary business purpose*", is defined to mean that a main purpose or major "drawing card" of the business, among any other primary or secondary business purposes, is providing sexual stimulation or gratification through the offering of a service or the selling, renting or exhibiting of material, devices or any other items intended to provide sexual stimulation or sexual gratification to its customers and

which material, devices or any other items is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity, but is not intended to include businesses whose entire activities might only be an incidental cause of sexual stimulation or gratification, and whose activities do not involve nudity nor material, devices or any other items distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, with "incidental cause" defined as happening as a chance or undesigned feature of something else; random; not of prime concern; subordinate to; or, as in accidentally cause. "A primary business purpose" of providing sexual stimulation or gratification may be demonstrated by the presence of one or more of the following factors and terms:

A. The exclusion of minors, persons under the age of 18 years, from the establishment or premises of the building by law or by option of the establishment, due to in part or in whole, to the offering of a service or the selling, renting or exhibiting of devices, material, merchandise or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity; or,

B. The exclusion of minors, persons under the age of 18 years, from any portion of the overall floor space of premises containing merchandise displayed for sale and open to customers, excluding restroom or dressing rooms, by law or by option of the establishment, due to in part or in whole, to the offering of a service or the selling, renting or exhibiting of devices, material, merchandise or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or whose employees or customers appear in a state of nudity; or,

C. The visibility, prominence or accessibility to customers of material distinguished by or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas; or,

D. A significant or substantial portion of the retail sales or revenue, the retail value of inventory, amount of retail floor space, amount of display areas or the amount of inventory attributable to or composed of material, services or products distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. ("Inventory" shall be measured with all titles or objects available on the premises for sale or rental including each of those items that are identical, or considered a separate title or object. "Significant or substantial portion" means more than an insignificant or incidental portion, does not depend upon a specific percentage or ratio, and does not necessarily mean a majority or predominant amount);or,

E. Any other fact, circumstance, or evidence which is relevant to demonstrate the type and quantity of merchandise or service that the establishment sells, rents, offers for sale or rent, displays or exhibits as constituting or composing a primary business purpose of the business.

2. *Adult arcade* means a type of adult entertainment use involving or consisting of any place or premises a type of adult entertainment use involving or consisting of any place or premises to which the public is permitted or invited wherein coin-operated, token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or

describing specified sexual activities or specified anatomical area, as one of its primary business purposes.

3. *Adult bookstore* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment which as one of its primary business purposes, engages in the offering for sale or rental, for any form of consideration, any one or more of the following:

   A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas, intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; or

   B. Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities. "Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities" does not include items used for birth control, for prevention of sexually transmitted diseases or any other such items available only by prescription from licensed pharmacies.

4. *Adult cabaret* means a type of adult entertainment use involving or consisting of any place or premises of a nightclub, bar, restaurant, or similar commercial establishment that has a primary business purpose of the offering to customers of live entertainment, that includes entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," which regularly features:

   A. Persons who appear in a state of nudity; or

   B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or

   C. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."; or

   D. That regularly features live performances such as dancing that is characterized by the exposure of any portion of the human form other than the pubic region.

5. *Adult massage establishment* means a type of adult entertainment use involving or consisting of any place or premises of any establishment or agency which that has as one of its primary business purposes of giving massages for a fee or other consideration, at the establishment or on a home-call basis, that is not licensed or not operated within strict compliance with applicable statutory law and the regulatory rules promulgated by Texas Department of State Health Services, or other regulatory agency, with respect to all licensing requirements and rules of the State of Texas, and where employees engage in any form of specified sexual activities with customers.

6. *Adult motel* means a type of adult entertainment use involving or consisting of any place or premises of a hotel, motel or similar commercial establishment which:

   A. Offers accommodations to the public for any form of consideration and provides patrons with television transmission to rooms of films, motion pictures, video cassettes, slides, or other pornographic reproductions which are distinguished or characterized by an emphasis on matters

depicting or describing specified sexual activities or specified anatomical areas as one of its primary business purposes; or

B. Offers a sleeping room for rent for a period of time that is less than 10 hours; or

C. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

7. *Adult movie theater* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, video reproductions, slides or other visual representations, or any combination thereof, are regularly shown which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas, as one of its primary business purposes.

8. *Adult novelty store* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment which offers for sale or rental for any form of consideration, any one or more of the following: Instruments, devices, including genital stimulation devices, or other paraphernalia which are designed or manufactured for use in connection with specified sexual activities regardless of the nature of any other products or services sold or provided, but not including items used for bona fide birth control or for prevention of sexually transmitted diseases, and not including any items available for purchase only by prescription from licensed pharmacies.

9. *Adult service establishment* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment which offers services or sells products to customers and in which one or more of the employees or the customer appears in a state of nudity or simulated nudity.

10. *Adult video store* means a type of adult entertainment use involving or consisting of any place or premises of a commercial establishment which as one of its primary business purposes, engages in the offering for sale or rental, for any form of consideration, any one or more of the following:

    A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas, or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas; or

    B. Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities. "Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities" does not include items used for birth control, for prevention of sexually transmitted diseases or any other such items available only by prescription from licensed pharmacies.

11. *Customer* means any person who:

    A. Is allowed to enter a sexually oriented business in return for the payment of an admission fee or any other form of consideration or gratuity; or

    B. Enters a sexually oriented business and purchases, rents, or otherwise partakes of any merchandise, goods, entertainment, or other services offered therein; or

    C. Is a member of and on the premises of a sexually oriented business operating as a private club.

12. "*Distinguished by or characterized by an emphasis upon*" means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas" the films so described are those whose dominant or principal character and theme are the exhibition or display of "specified sexual activities" or "specified anatomical areas."

13. *Employee* means any person who renders any service whatsoever to the customers of a sexually oriented business or who works in or about a sexually oriented business and who receives compensation for such service or work from the operator or owner of the sexually oriented business or from its customers.

14. *Escort* means a person who, for consideration, agrees or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

15. *Escort agency* means a type of adult entertainment use involving or consisting of any place or premises where a person or business association who, which as one of its primary business purposes, furnishes, offers to furnish, or advertises to furnish escorts, or any combination thereof, for a fee, tip, or other consideration.

16. "*Instruments, devices including genital stimulation devices, or paraphernalia which are designed for use in connection with specified sexual activities*" does not include items used for birth control, for prevention of sexually transmitted diseases or any other such items available only by prescription from licensed pharmacies.

17. *Manager* means any person (1) who supervises, directs or manages any employee of a sexually oriented business or (2) who is charged by the licensee, owner, or operator with directly supervising the operation of the sexually oriented business and with monitoring and observing all areas of the enterprise to which customers are admitted at all times during which the enterprise is open for business or customers are on the premises.

18. *Nude modeling studio* means a type of adult entertainment use involving or consisting of any place or premises where a person who appears in a state of nudity or displays specified anatomical areas, is provided or allowed to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, except as may be provided for under the "exclusions" from the definition of "adult entertainment," as expressly set forth within these definitions.

19. *Nudity or state of nudity* means less than completely and opaquely covered:

    A. Human genitals, pubic region, or pubic hair;

    B. All portions of a female breast below a point immediately above the top of the areola continuing downward to the lowest portion of the breast;

    C. Human buttock; or

    D. Any combination of the above.

20. *Operated or causes to be operated* means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated, an adult entertainment use whether or not that person is an owner, part owner, licensee, or manager of the establishment.

21. *Person* means an individual, firm, association, organization, partnership, trust, foundation, company or corporation.

22. *Regularly* means featuring, promoting, performing, permitting, doing or advertising an event or other happening or occurrence on a recurring or routine basis involving any length of time.

23. *Premises* mean the building of the adult entertainment establishment.

24. *Sex parlor* means a type of adult entertainment use involving or consisting of any place or premises of an establishment that is operated for the purpose of giving massages for a fee or other consideration at the establishment or on a home-call basis, that are intended to provide sexual stimulation, sexual gratification or engage in, in combination with a massage or other physical contact, including specified sexual activities, as one of its primary business purposes.

25. *Sexual encounter center* means a type of adult entertainment use involving or consisting of any place or premises of a business or commercial enterprise that offers for a fee or other consideration, any physical contact in the form of wrestling or tumbling between persons of the opposite sex, or specified sexual activities between male and female persons and/or persons of the same sex, or other activities when one or more of the persons is in a state of nudity or simulated nudity.

26. *Simulated nudity* means a state of dress in which any device or covering is worn and exposed to view that simulates any part of the genitals, buttocks, anus, pubic region, or areola of the female breast.

27. *Specified anatomical areas* means:

    A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

    B. Less than completely and opaquely covered human genitals, pubic hair, buttocks, or a female breast below a point immediately above the top of the areola, or any combination thereof.

28. *Specified sexual activities* means any of the following:

    A. The fondling or other erotic touching of another person's human genitals, pubic region, buttocks, anus, or female breasts; or

    B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, bestiality or sodomy; or

    C. Excretory functions as part of, or in connection with, any of the activities set forth in (1) and 2, above.

29. *Sexual oriented business* means those businesses or uses as defined under the definition of “adult entertainment”.

30. Exclusions: The term "adult entertainment" shall not be construed to mean or include:

    A. Any business activity or service that by federal or state law is required to be operated by or employing licensed psychologists, licensed physical therapists, registered massage therapists, registered nurses, licensed pharmacists or licensed athletic trainers engaged in practicing such licensed professions as generally recognized within their profession, including:

    B. A state-registered massage establishment that employs only state-registered massage therapists to perform massage therapy; conforming to all requirements of state law and other applicable law, or

    C. A state-registered massage school with at least 2 registered massage therapists that teaches the course of instruction required for registration as a massage therapist or a school approved by the Central Education Agency or that is otherwise approved by the state; or

D. A state-registered massage therapy instructor who instructs one or more students in any section of the course of instruction required for registration as a massage therapist; or

E. Operated by or employs a licensed physical therapist whose activities fall under the control of the Texas Board of Physical Therapy Examiners or a license of another state agency performing health care services within the scope of the applicable licensing act who performs the activities for or on behalf of the business commercial enterprise.

F. Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts as its sole business;

G. Any retail establishment whose principal business is the offering of wearing apparel for sale to customers, which does not exhibit merchandise on live models, and which does not offer for sale or rental any:

H. Materials of any kind containing depictions of specified anatomical areas; or

I. Instruments, devices, or paraphernalia which are designed or manufactured for use in connection with specified sexual activities; or

J. Any activity conducted or sponsored by any Texas independent school district, licensed or accredited private school, or public or private college or university; or,

K. Any legalization or authorization to violate any applicable law, civil or penal, duly enacted by any governmental body regarding any of the activities described in these definitions under the term 'adult entertainment". Under no circumstance, is this Chapter 130 to be construed as repealing any laws of any governmental body regarding any of the activities that is illegal, currently or in the future, or may constitute or be deemed to be a nuisance.

31. Change in type of adult entertainment use or business: A change in the type of adult entertainment use or business from an adult arcade, adult bookstore, adult cabaret, adult escort agency, adult massage establishment, adult motel, adult movie theater, adult novelty store, adult service establishment, adult video store, sex parlor, sexual encounter center or nude modeling studio or other adult entertainment use into another type of adult entertainment use or business such as an adult arcade, adult bookstore, adult cabaret, adult escort agency, adult massage establishment, adult motel, adult movie theater, adult novelty store, adult service establishment, adult video store, sex parlor, sexual encounter center or nude modeling studio or other type of adult entertainment, or to any other use, constitutes a change in use as generally defined in Chapter 130.

Afterhours club shall mean an establishment offering to the general public, facilities for dancing and entertainment, either for free or a fee. The establishment operates, generally, between the hours of 2am and 6am and does not serve alcoholic beverages.

Airport shall mean a place where an aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers.

Alley shall mean a minor public right-of-way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a public street.

Alteration shall mean a physical change in or to a building or site.

Amusement arcade (video arcade) shall mean any building, room, place or establishment of any nature or kind and by whatever name called, where more than 2 amusement devices are operated for a profit, whether the same be operated in conjunction with any other business or not, including but not limited to

such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices. Provided, however, the term "amusement device", as used herein, shall not include musical devices, billiard tables which are not coin-operated machines designed exclusively for children and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports.

Antenna shall mean an instrument or device consisting of wires, poles, rods, or reflecting discs designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum.

Antenna (commercial) shall mean an antenna primarily used for commercial broadcasting. A satellite dish in excess of 12 feet in diameter shall be considered a commercial antenna. A microwave transmitting tower is also a commercial antenna.

Antenna (noncommercial) shall mean an antenna used for amateur radio, CB radio, or TV reception. A satellite dish antenna not to exceed 12 feet in diameter shall also be considered as a noncommercial radio antenna.

Apartment building. See "Multifamily"

Assisted Living Facility shall mean a residential establishment licensed under Chapter 247 of the Texas Health and Safety Code (or its successor statute) that provides food, shelter and Personal Care Services to persons unrelated to the proprietor of the establishment.

Automobile shall mean a self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, trucks, buses, motor scooters and motorcycles.

Automobile parking lot or garage shall mean an area or structure designed for the parking of motor vehicles.

Automobile rental shall mean storage, leasing or renting of automobiles, motorcycles, and light load vehicles, but not including commercial or industrial vehicles or equipment.

Automobile repair shall mean general repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision services, including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and other similar uses. *Automobile repair* shall also include minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems, and other similar minor services for motor vehicles except heavy load vehicles.

Automobile sales shall mean the retail sale of new or used automobiles or light load vehicles.

Automobile service station shall mean any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of automobile fuels, lubricants, and automobile accessories, including those operations listed under minor automobile repair. Vehicles which are inoperative or are being repaired may not remain parked outside an automobile service station for a period greater than seven days.

Bed and breakfast shall mean a dwelling occupied as a permanent residence by an owner or renter which serves breakfast and provides sleeping accommodations in no more than 5 rooms for transient guests for compensation. Breakfast is to be provided for overnight guests only. Bed and breakfast facilities are permitted to facilitate special events, such as wedding receptions, dinner parties, and the like.

Block shall mean a tract or parcel of land designated as such on a duly recorded plat and may be entirely surrounded by public streets or by a combination of public streets and public parks, cemeteries, railroad right-of-way, or natural or manmade physical features (e.g., ditches, gullies, ridges, etc.) that disrupt what would otherwise be an unbroken landscape.

Boardinghouse (lodginghouse) shall mean a dwelling other than a hotel, where for compensation and by prearrangement for definite periods, meals, or lodging and meals are provided for 3 persons or more, but not exceeding 20 persons on a weekly or monthly basis.

Buffer shall mean a land area used to visually separate one use from another or to block or mitigate the effects of noise, lights or other nuisances. It may include required or permitted landscaping and screening, storm water detention facilities, and pedestrian walkways.

Building. See "Structure". Building also may be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn.

Cabinet shop shall mean a structure use to fabricate cabinetry for retail sale.

Carport shall mean a roofed structure open on a minimum of 2 sides designed or used to shelter cars, boats, recreational vehicles or other motor vehicles.

Carwash shall mean structure used to wash motorcycles, automobiles and light load vehicles.

Cemetery shall mean property used for the interring of the dead, including columbariums, crematories, mausoleums and mortuaries.

Certificate of occupancy shall mean an official certificate issued by the City through the Chief Building Official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued; may be referred to as an occupancy permit.

Change of use shall mean any use which differs from the previous use of a structure or site.

Charitable use shall mean a use that provides essential goods or services, such as food, limited or emergency housing, clothing, counseling, aid, or assistance to those in need, for no fee or compensation.

Chief Building Official shall mean the official or other designated authority charged with the administration and enforcement of the building code and related regulation.

Child care:

(1) *Child care--Class A* shall mean any single-family residence which receives 6 or less children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians, for regular periods of time and for compensation, excluding the caretaker's own children. The term "child care" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school. (This is considered a home occupation.)

(2) *Child care--Class B* shall mean a building or structure where care, protection, and supervision is provided, on a regular schedule, at least twice a week to at least 7 and not more than 12 children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians. The term "child care" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school. (This is not considered a home occupation.)

(3) *Child care--Class C* shall mean a building or structure where care, protection, and supervision is provided, on a regular schedule, at least twice a week to more than 12 children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians

or custodians. The term "child care" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school. (This is not considered a home occupation.)

City shall mean the Municipal Corporation, City of Bryan, Texas.

City Council shall mean the duly and constitutionally elected governing body of the City of Bryan, Texas.

Commercial amusement (indoor) shall mean an amusement or entertainment enterprise wholly enclosed and operated within a building. This includes, but is not limited to, bowling alleys, skating rinks, billiards or pool halls, indoor tennis courts, gymnasiums, and swimming pools.

Commercial amusement (outdoor) shall mean an outdoor area or structure, open to the public which provides entertainment or amusement for a fee or admission charge, including but not limited to batting cages, miniature golf, go-cart tracks, drive-in theaters, water slides and carnivals.

Common elements shall mean, when applied to condominium, townhouse or similar developments, shall include:

(1) *General common elements* means and includes:

a. The land, whether leased or in fee simple, on which the building stands;

b. The foundations, bearing walls and columns, roofs, halls, lobbies, stairways, and entrances and exits or communication ways;

c. The basements, flat roofs, yard, and gardens, except as otherwise provided or stipulated;

d. The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;

e. The compartment of installation of central services such as power, light, gas, cold and hot water, refrigeration, central heating, reservoirs, water tanks and pumps, swimming pools, and the like;

f. The elevators and shafts, garbage incinerators and, in general all devices or installations existing for common use; and

g. All other elements of the building desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime.

(2) *Limited common elements* means and includes those common elements which are agreed upon by all of the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways, and elevators, sanitary services common to the apartments of a particular floor, and the like.

Commons shall mean an open, unobstructed space, bounded on more than 2 sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

Comprehensive plan shall mean the term "comprehensive plan" or "municipal development plan" and adoptions, amendments, or supplements thereto, which has or have been adopted by the Planning and Zoning Commission and the City Council shall be used as a guide for future development of the City and its surrounding area.

Conceptual plan shall mean the initial plan layout determined by the developer. The plan shall be used as a tool to determine the requirements of the project and an overall design scheme.

Concrete or asphalt batching plant (permanent) shall mean a permanent manufacturing facility for the production of concrete or asphalt.

Concrete or asphalt batching plant (temporary) shall mean a temporary manufacturing facility for the production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

Condominium shall mean in a condominium each dwelling unit owner owns as his or her fee estate the space that his or her unit occupies. This is the space lying between the interior surface of the unit sides and between the floor and the ceiling. The remainder of the building and the land are called "common elements" or "common area." Each unit owner holds an undivided interest in the common elements and limited common elements as defined in the Texas Condominium Act (V.T.C.A., Property Code ch. 81).

Construction yard (temporary) shall mean a storage yard or assembly yard for building materials and equipment directly related to a specific construction project and subject to removal at completion of construction.

Country club shall mean a land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

County shall mean Brazos County, Texas.

County commissioner's court shall mean the duly and constitutionally elected governing body of Brazos County, Texas.

Covenant (deed restriction) shall mean a private legal restriction on the use of land, contained in the deed to the property or otherwise formally recorded. Deed restrictions are not enforceable by the City.

Credit access business means a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan, as those terms are defined in Section 393.601 of the Texas Finance Code, as amended.

Density shall mean levels of concentration or activity in uses such as residential, commercial, industrial, recreation, or parking.

Display, Sidewalk shall mean a display of goods and wares on a private or public sidewalk for retail sale to the public by the owner or manager of a business located in a directly adjacent, permanent, established structure which has received a certificate of occupancy and complies with all current applicable zoning, building codes, and site development requirements of the City.

Display, Outdoor shall mean the display of sample inventory, merchandise, or other items for sale, rent or lease and outside a permanent, established structure which has received a certificate of occupancy and complies with all current applicable zoning, building codes, and site development requirements of the City.

District shall mean any section or sections of the City for which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.

Dormitory shall mean a building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar institutional use.

Duplex shall mean a dwelling with 2 attached living units designed to be occupied by 2 households living independently of each other.

Dwelling unit shall mean a structure or portion which is designed or used for residential purpose, including single-family, two-family, attached dwellings, multifamily dwellings, roominghouses and boardinghouses, fraternities, sororities, dormitories, manufactured homes, and modular dwellings, but not including hotels or motels.

Easement shall mean land reserved for the use of the public by the grantor, in which to install and maintain utility lines, drainage ditches or channels, or for other City or public services; the ownership or title to the land encompassed by the easement being retained by the owner. The City may specify that no building or part of a building or other permanent structure or fence, in case of a drainage easement, may be located within the limits of the easement.

Engineer shall mean a person duly authorized and licensed under the provisions of the Texas Engineering Practice Act (V.T.C.A., Occupations Code ch. 1001), as heretofore or hereinafter amended, to practice the profession of engineering.

Essential municipal uses shall mean facilities related to services traditionally provided by local government and/or private utilities, necessary for the furnishing of adequate service by such utilities or City municipal departments for the general public health, safety, convenience, and welfare. Essential municipal uses include, but are not limited to the following: communication systems, City parks, schools, City fire protection, City police substations, power substations, City or private utility systems and accessories thereto, including, but not limited to: City water storage tanks, pumps, lift stations, and other similar accessories. Essential municipal uses are permitted in all zoning districts; however, these facilities must comply with all other requirements of the Zoning Ordinance as well as the Land and Site Development Ordinance and Subdivision Ordinance, or seek a variance from the Planning and Zoning Commission. Essential municipal uses which include aboveground utility accessory structures, such as substations, sewer lift stations, water pump stations, treatment plants, storage towers and the like are required to observe screening and buffering requirements as described in Sec. 130-32.

Extraterritorial jurisdiction (ETJ) shall mean under the terms of V.T.C.A., Local Government Code ch. 42, the unincorporated area, not a part of any other City, which is contiguous to the corporate limits of the City, the outer boundaries of which are measured from the extremities of the corporate limits of the City outward for a distance of 3 1/2 miles. In the event that the ETJ of the City overlaps an area within the ETJ of one or more other cities, such overlap may be apportioned by mutual agreement of the governing bodies of the cities concerned. Such agreement shall be in writing and shall be approved by an ordinance or resolution adopted by such governing bodies.

Fabrication shall mean the manufacturing from standardized parts of a distinct object differing from the individual components.

Family shall mean any number of individuals living together in a single dwelling unit in which not more than 4 individuals are unrelated by blood, marriage or adoption. Foster children residing in licensed foster care homes shall not be included in the calculation of the number of unrelated individuals living together in a single dwelling unit. Licensed foster care homes shall comply with any state mandated restrictions on the number of children permitted to reside in the dwelling unit.

Farm equipment sales and service shall mean a building or open area, other than a right-of-way or public parking area, used for the display, sale, rental or storage of farm equipment.

Feed store shall mean a building used for the display and sale of livestock feed and affiliated equipment.

Firewall shall mean a fire resistive wall, having protective openings, which restricts the spread of fire and extends continuously from the foundation to or through the roof.

Fitness center shall mean health club or similar building that provides activities and facilities such as aerobic exercises, boxing, running and jogging, exercise equipment, game courts, swimming pool, saunas, showers, massage rooms, lockers, and ancillary indoor and outdoor recreation facilities on the same premises.

Flea market shall mean a periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public. Flea markets differ from other retail stores or shopping centers in that there are no long-term leases between the sellers and owners or lessors of the site and that often the sellers use their own vehicles for display or set up temporary tables for their wares.

Floodplain shall mean an area of land subject to inundation by a 100-year frequency flood, as shown on the FEMA floodplain map of the City.

Fraternal organization, lodge, or service *club* shall mean an organized group having a restricted membership and specific purpose related to the welfare of the members and others such as Elks, Masons, Knights of Columbus, Lions Club, Fraternity or Sorority, or a labor union.

Fraternity and sorority houses shall mean a building containing sleeping rooms, bathrooms, common rooms and a central kitchen and dining room maintained exclusively for fraternity or sorority members and their guests or visitors and affiliated with an institute of higher learning.

Gaming establishment shall mean gambling facilities or other operations featuring games of chance and bingo parlors.

Garage, detached private, shall mean an enclosed (on at least 3 sides) structure separate from the main residence used primarily for the storage of vehicles and secondarily for storage of household goods, and used solely by the occupants and their guests. Also called "enclosed parking space."

Gasoline service or *filling station.* See *"Automobile service station."*

Golf course shall mean an area of 20 acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses.

Group home/community home means a residential establishment licensed by the State of Texas, where not more than 6 physically or mentally impaired or handicapped persons are provided food and shelter, as well as supervised care and rehabilitation by not more than 2 persons residing in the home at the same time. The limitation on the number of persons applies regardless of the legal relationship of those persons to one another. The home must be operated by:

(1) The Texas Department of Mental Health and Mental Retardation;

(2) A community center organized under Subchapter A, Chapter 534, Texas Health and Safety Code, that provides services to persons with disabilities;

(3) An entity subject to the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq. Vernon's Texas Civil Statutes);

(4) An entity certified by the Texas Department of Human Services as a provider under the medical assistance program serving person in intermediate care facilities for persons with mental retardation; or

(5) An Assisted living facility licensed under Chapter 247, Texas Health and Safety Code, provided that the exterior structure retains compatibility with the surrounding residential dwellings.

Halfway house shall mean a home for not more than 4 persons who have demonstrated a tendency toward alcoholism, drug abuse, antisocial or criminal conduct, together with not more than 2 persons providing supervision and other services to such persons, all of which live together as a single housekeeping unit.

Health authority shall mean the City health officer, state department of health or county health official.

Heliport shall mean an area of land or water or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

Helistop shall mean the same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

Historic Landmark Commission shall mean a board, comprised of a majority of citizens of Bryan, Texas, and appointed by the City Council as an advisory body, authorized to carry out historic preservation duties and functions as delegated by the City Council.

Historic landmark, resource, or property shall mean any building, structure, object, site, district, area or land of architectural, historical or cultural importance or value, which the City Council determines shall be protected, enhanced and preserved in the interest of the culture, prosperity, education and general welfare of the people.

Historic preservation overlay district shall mean a district which possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

Historic site shall mean the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archeological value regardless of the value of any existing structure.

Home occupation shall mean any occupation or activity conducted within a dwelling unit which is clearly incidental and subordinate to the use of the premises for dwelling purposes, provided that:

(1) No retail business of any sort is involved.

(2) No stock in trade is kept nor commodities sold except those made or used on the premises.

(3) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

(4) Only members of the family residing on the premises are employed.

(5) No equipment is used which creates offensive noises, vibrations, sound, smoke or dust, odors, heat, glare, X-ray, or electrical disturbance to radio or television. In particular, a home occupation includes the following and similar uses: artist's studio; dressmaking and millinery; limited professional practice provided no clients or customers are permitted on the premises (such as lawyer, engineer, architect, or accountant); music teaching limited to not more than 2 pupils at one time.

(6) Commercial repair of automobiles shall not be permitted.

(7) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building.

(8) No home occupation shall be conducted in any accessory structure.

(9) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and require no additional parking spaces beyond those required for the dwelling unit.

(10) Child care in a place of residence which receives 6 or less children is allowed as a home occupation.

(11) Home schools as classified by state requirements are allowed as a home occupation.

Homeowners association (HOA) shall mean any organized group of landowners within a developed project, with voting rights to promulgate rules and regulations over property dedicated to the ownership of the formed association.

Industrial park shall mean a large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

Integrity shall mean the authenticity of a property's historic identity, evidenced by survival of physical characteristics that existed during the property's historic or prehistoric period.

Junkyard shall mean an open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Material shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard shall be considered a junkyard.

Kennels (commercial) shall mean an establishment with indoor and/or outdoor pens in which more than 4 dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for commercial purposes.

Kiosk shall mean a small, freestanding, one-story structure having a maximum floor area of 350 square feet and used for commercial purposes, such as automatic teller machines or the posting of temporary information and/or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 25 square feet.

Laundromat (self-serve washateria) shall mean a facility where patrons wash, dry or dry clean clothing and other fabrics in machines operated by the patron.

License, Mobile Home Park shall mean an authorization, or written evidence thereof, issued by the City, to maintain and operate a manufactured/mobile home park.

Lot of record shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk of the county or a lot subdivided by metes and bounds description prior to May, 1967.

Machine shop shall mean a workshop where power-driven tools are used for making, finishing, or repairing machines or machine parts.

Main structure shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.

Manufactured home shall mean a HUD-Code manufactured home or a mobile home and collectively means and refers to both. The term "HUD-Code manufactured home" shall mean 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 8 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 of the home. The term does not include a recreational vehicle as that term is defined by 24 CFR 3282.8(g). For use in this chapter, the terms "manufactured home" and "manufactured housing" shall be synonymous with HUD-Code manufactured home.

Manufactured home display and sales shall mean the offering for sale, storage, or display of trailers or mobile homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

Manufactured housing land lease community shall mean a residential development typified by single ownership of the land with the development, with the landowner retaining the rights of ownership. Home sites within the community are leased to individual homeowners, who retain customary leasehold rights for the placement and occupancy of individual manufactured homes (this definition excludes mobile homes).

Manufactured/mobile home park shall mean any lot, block, tract or parcel of contiguous lots, blocks, tracts or parcels of land, under common ownership, which has been so designed and improved that it contains 2 or more manufactured/mobile homes or manufactured/mobile home lots available for lease or rent to the public and for the placement of mobile homes and/or manufactured homes for occupancy.

Manufacturing shall mean manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing. Such operations shall meet the performance standards, bulk controls, and other requirements of this chapter.

Masonry construction shall mean exterior construction materials including brick, stone, granite, marble, concrete and other built up/tilt panels.

Master thoroughfare plan shall mean a plan of major and secondary streets and highways, a part of the City and adaptations, amendments, or supplements thereto as developed and adopted by the Planning and Zoning Commission.

Medical facilities or clinics.

(1) *Dental clinic or medical clinic* shall mean a facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients provided that patients are not kept overnight except under emergency conditions.

(2) *Dental office or medical office* shall mean same as dental or medical clinic.

(3) *Hospital* shall mean an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.

(4) *Public health center* shall mean a facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.

(5) *Sanitarium* shall mean an institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.

(6) *Massage establishment* shall mean any place of business in which massage therapy is practiced by a massage therapist, as defined and licensed by state law. Equivalent terms for "massage therapy" are massage, therapeutic massage.

(7) *Minor emergency clinic* shall mean medical clinic which provides "walk-in" services for minor medical emergencies and may be open 24 hours per day.

Micro-assembly shall mean operations that are involved in processing fabrication or assembly of finished or nearly finished goods into a functioning whole, where such processing, fabrication or assembly occurs wholly within an enclosed space, and the total floor area within which assembly occurs does not exceed 75% of the gross floor area. Processing or fabrication of the already manufactured components by machinery shall be restricted so, to the extent that any related noise, vibration, and smoke, electrical interference, dust odors or heat shall not be discernible beyond the boundaries of the building within which such micro-assembly is located. The sale and/or shipment of such manufactured goods, to the general public or direct consumer, shall occur on the same premises where micro-assembly occurs. Examples include but are not limited to weaving or production of textiles or apparel, manufacture of wood products, fabrication of fashion accessories including jewelry, hats and footwear, production of home furnishings and decorative items, craft work by artisans, and assembly and packaging of already manufactured components into finished electronic instruments.

Mini-warehouse/self-storage uses shall mean uses that provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property. Accessory uses may include living quarters for a resident manager or security and leasing offices. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the mini-warehouse/*self-storage* use. Examples include facilities that provide individual storage areas for rent.

Mobile home shall mean a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the travel mode, is 8 body feet or more in width, 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 of the home.

Model home shall mean a single-family dwelling in a developing subdivision located on a legal lot of record that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built in the same subdivision.

Modular building/housing (industrialized building) shall mean a structure or building module as defined, under the jurisdiction and control of the Texas Department of Licensing and Regulation and the Texas Industrialized Building Code Council and that is installed and used by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. The term does not include a mobile/manufactured home as defined in the Texas Manufactured Housing Standards Act (V.T.C.A., Occupations Code ch. 1201).

Motel or *hotel* shall mean a building or group of buildings designed for and occupied as a temporary dwelling place for individuals and providing 4 or more rooming units where customary hotel services such as linen, maid service, telephone, and upkeep of furniture is provided.

Motorcycle shall mean a two-wheeled self-propelled vehicle having one or 2 saddles or seats, and which may have a sidecar attached. For purposes of this chapter, motorbikes, motor scooters, mopeds, 3 or 4 wheel all-terrain vehicles (ATV's), and similar vehicles are classified as motorcycles.

Motorcycle sales service shall mean the display, sale and servicing, including repair work, of motorcycles.

Multifamily (residential) development or dwelling shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.

Municipal services and support facilities shall mean a multi-use complex or facility owned and operated by the City to facilitate the services essential to providing and maintaining municipal services. Uses within the complex or facility include, but are not limited to the following: housing and maintenance of City owned vehicles, trucks and other equipment, storage of materials (interior and exterior), workshops, fueling stations, and associated offices. Municipal services support facilities are allowed by conditional use in all zoning districts, and are required to observe screening and buffering requirements as described in Sec. 130-32.

Nightclub shall mean an establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food and/or dancing may also be provided.

Nonconforming use shall mean a building, structure, or use of land lawfully occupied at the time of the effective date of the ordinance from which this chapter is derived or amendments thereto, but which does not conform to the use regulations of the district in which it is situated.

Nonpaid parking for nonresidential uses shall mean parking spaces that are appropriate and incidental to uses other than residential dwellings that are not contracted or leased for commercial gain. This term does not include paid commercial parking lots or garages.

Nonresidential district shall mean the A-O District and any district that does not permit single-family dwelling units as of right.

Nursery (greenhouse) shall mean an establishment, including a building, part of a building or open space, for the growth, display and/or sale of large plants, shrubs, and trees, and other materials used in indoor or outdoor planting.

Nursing home shall mean a residential establishment licensed under Chapter 242 of the Texas Health and Safety Code (or its successor statute), that furnishes food and shelter to persons unrelated to the proprietor of the establishment and provides minor treatment under the direction and supervision of a physician licensed by the Texas Medical Board, or other services that meet some need beyond the basic provision of food, shelter, and laundry.

Object shall mean a feature of a historic site that is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment, such as statuary in a designed landscape.

Occupancy shall mean the use or intended use of the land or buildings by proprietors or tenants.

Office, professional and general administrative shall mean a room or group of rooms used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

Office-showroom/warehouse shall mean an establishment with a minimum of 75% of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

Open space shall mean an open area or recreational facility which is designed and intended to be used for outdoor living and/or recreation. An area of common usable open space shall include landscaping, walks, recreational facilities, water features and decorative objects such as artwork or fountains. Usable open space shall not include: rooftops; accessory buildings, except those portions of any building designed specifically for recreational purposes; parking areas; driveways; turnaround areas; or the right-of-way or easement for streets or alleys. When used in Planned Development or similar development proposals, the term "open space" shall apply to both private and common ownership property designated for outdoor living and/or recreation.

Ordinary maintenance shall mean activities relating to a property that would be considered ordinary or common for maintaining the property, such as the replacement of a porch floor with identical or in-kind materials. It also may include other activities such as painting.

Parking lot shall mean an off-street, ground level area, surfaced and improved, for the temporary storage of motor vehicles.

Patio home (zero lot line dwelling) shall mean a detached, single-family dwelling located on an individual lot with one wall coincident with a side lot line and a patio or side yard oriented toward the opposite side of the dwelling entirely enclosed by the dwelling wall, lot line wall of the neighboring dwelling, or other fences and walls. Adjoining lots shall not have common zero lot lines.

Pawnshop shall mean an establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker). Retail sales also take place of primarily used items.

Person shall mean any individual, association, firm, corporation, governmental agency, partnership or political subdivision.

Personal Care Home shall mean a residential establishment that provides food, shelter and personal care services to 3 or less persons unrelated to the proprietor of the establishment.

Personal care services shall mean:

(1) the assistance with feeing, dressing, moving, bathing, or other personal needs or maintenance,

(2) the administration of medication by a person licensed or otherwise authorized in this state to administer the medication or provides assistance with or supervision of the administration of medication, or

(3) general supervision or oversight of the physical and mental well-being of a person who needs assistance to maintain a private and independent residence, regardless of whether a guardian has been appointed for the person.

Personal service shop or *custom personal services* shall mean establishments primarily engaged in providing services generally involving the care of the person or his or her apparel including but not limited to barbershops and beauty shops, dressmaking, shoe shining, dry-cleaning and laundry pick-up stations, tailor or seamstress, and salons/health clubs (no outside storage).

Place of worship shall mean a church, synagogue, temple, mosque, or other facility that is used on a regular basis for prayer by persons of similar belief.

Planned development district shall mean area of land controlled by landowner or landowners to be developed as a single entity for a number of dwelling units, and/or commercial and industrial uses, if any, the plan for which does not correspond in lot size, bulk or type of dwelling, or commercial or industrial use, density, lot coverage and required open space to the regulations established in other sections of this chapter.

Planning and Zoning Commission shall mean a board, comprised of citizens of Bryan, Texas, and appointed by the City Council as an advisory body, authorized to recommend changes in the zoning and other planning functions as delegated by the City Council.

Plat shall mean a map of a town, section, or subdivision showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys, etc., drawn to scale.

Police station shall mean a protection center operated by the City, serving as the headquarters for the City law enforcement officers and their support staff, including administrative offices, storage of equipment, temporary detention facilities, and open or enclosed parking of patrol vehicles; excluding, however, correctional institutions.

Police substation shall mean a protection center operated by the City, serving as a neighborhood center for the City law enforcement officers, including limited parking for patrol vehicles. Police sub-stations may also serve as the residence for a City law enforcement officer.

Portable building sales shall mean an establishment which displays and sells structures capable of being carried and transported to another location, but not including mobile homes.

Premises shall mean land together with any buildings or structures situated thereon.

Preservation shall mean the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

Primary use shall mean the principal or predominant use of any lot or building.

Printing shop shall mean an establishment which reproduces, in printed form, individual orders from a business, profession, service, industry or government organization.

Private utility, other than listed shall mean nonpublic utility requiring special facilities in residential areas or on public property such as heating, cooling, or communications not customarily provided by the municipality or public utilities.

Professional office shall mean a single-family structure or multifamily structure used solely for the provision of executive, management, or legal services. Typical uses include engineering, architectural, and legal offices. Medical offices are excluded from this definition. No more than 3 personnel per dwelling unit are permitted to work in the office and the hours of operation are limited to 8:00 to 6:00 Monday through Friday and 10:00 to 5:00 Saturday and Sunday.

Railroad track and right-of-way shall mean the right-of-way and track used by a railroad, but not including railroad stations, sidings, team tracks, loading facilities, dockyards, or maintenance areas.

Reception hall shall mean any building, land area or other premises, or a portion thereof, which may be rented for social functions.

Recovery facility shall mean a treatment facility that provides residential programs that provide care and training or treatment for psychiatric, alcohol, or drug problems but where patients are not supervised by sworn officers.

Recreational center/community center shall mean a place designed and equipped for recreational, social, educational, cultural, and religious activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

Recreational vehicle (RV) park shall mean any site upon which 2 or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles designed to be used by the general public as temporary living quarters for recreation or vacation purposes.

Recycling center shall mean a facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand within an enclosed building or area.

Recycling collection point shall mean an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items is permitted. Such a facility would generally be located in an easily accessed area and shall be reasonably free from noxious odors, rodents, insects, and refuse.

Rehabilitation shall mean the act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

Replat shall mean the process of amending or vacating a recorded plat.

Reserve strip or parcel shall mean any lot, tract, parcel, strip or any other land which prohibits access from public or private tracts or parcels to land dedicated or intended to be dedicated to public use.

Residence. Same as a dwelling.

Residential district shall mean a district where the primary purpose is residential use and includes the RD-7, RD-5, R-NC, MF, DT-N, SC-R and MU-1 Districts.

Restaurant shall mean a business establishment whose principal business is the selling of unpackaged food to the customer in a ready to consume state.

Restoration shall mean the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

Retail or service, incidental, shall mean the rendering of incidental retailing or services incidental to the primary use. In the Office District, such uses include a barbershop or beauty shop, smoke shop, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy.

Retail stores and shops (retail services) shall mean an establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Right-of-way shall mean an area or strip of land dedicated as public property on which an irrevocable right of passage has been recorded for the use of vehicles or pedestrians or both.

Rodeo grounds shall mean a facility that accommodates the public competition or exhibition of skills such as riding broncos or roping calves.

Roominghouse. See "Boardinghouse."

Saddlery shall mean an establishment engaged in the making and selling of tack for livestock, including but not limited to saddles and harnesses. Tanning of leather goods is prohibited within a saddlery.

Salvage or reclamation of products (also see "Wrecking yard") shall mean the reclamation and storage of used products or materials.

Satellite dish antenna.

(1) *Satellite television reception dish* shall mean a round, parabolic apparatus capable of receiving communications from a transmitter relay located in planetary orbit.

(2) *Usable satellite signals* shall mean satellite signals, from the major communication satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations or by way of cable television.

School, private, shall mean a school under the sponsorship of a private agency or corporation other than a public or religious agency, having a curriculum generally equivalent to public elementary or secondary schools; except all private schools where education is primarily conducted in private homes.

School, public or parochial, shall mean a school under the sponsorship of a public or religious agency providing elementary or secondary curriculum, but not including private trade or commercial schools.

Screening shall mean a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Sexually oriented uses. See *"Adult entertainment."*

Sight distance triangle shall mean a triangular-shaped portion of land established at street intersections in which no visual obstructions are erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the line of visibility of motorists entering or leaving the intersection, as defined by the American Association of State Highway and Transportation Officials.

Single-family dwelling unit shall mean a dwelling unit designed for and occupied by one family and that is surrounded by open space. A single-family dwelling unit may have a second family comprised entirely of individuals related by blood, marriage or adoption, residing therein on a temporary basis for a period not exceeding 6 months in any calendar year.

Site shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.

Stable--Commercial shall mean a stable used for the rental of stall space or for the sale or rental of horses or mules.

Stable--Private shall mean an area used solely for the owner's private purposes for the sale or keeping of horses, mules or ponies, and not kept for remuneration, hire or sale.

Storage or wholesale warehouse shall mean a building used primarily for the storage of goods and materials.

Storage, Limited Outdoor shall mean storage that is accessory to the principal land use on a site. Storage activities include storage of packaged merchandise or materials in boxes, in crates, on pallets or other kinds of shipping packaging and other similar merchandise, material or equipment. Disorganized or loose materials or objects, or materials stored in bulk shall not be allowed in limited outdoor storage.

Storage, General Outdoor shall mean storage of unpackaged or bulk materials, including but not limited to landscape, building and aggregate materials.

Storage, Industrial Outdoor shall mean outdoor storage allowed for all uses allowed within the Industrial District zoning designation.

Story shall mean that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. The average height for a story shall be defined as 12 feet.

Story, half, shall mean a space under a sloping roof which has the line of intersection of roof decking and wall face not more than 3 feet above the top floor level, and in which space not more than 66% of the

floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

Streets:

(1) *Arterial.* This class of streets brings traffic to or from the expressway and serves those major movements of traffic within or through the urban area that are not served by expressways. Arterials interconnect the principal traffic generators within the City as well as important rural routes. Arterials handle trips between different areas of the City and should form a reasonably integrated system. The length of the typical trip on the system should exceed one mile. The primary function of an arterial is to provide movement between principal traffic generators.

(2) *Collector.* This class of streets serves internal traffic movements within an area of the City, such as a subdivision, and connects this area with the arterial system. Collectors do not handle long through trips and are not, of necessity, continuous for any great length. In gridiron street patterns, however, a street of several miles in length may serve as a collector rather than an arterial if the predominant use is to reach the next junction with an arterial and there turn off.

(3) *Cul-de-sac.* A street having but one outlet to another street and terminated on the opposite end by a vehicular turnaround.

(4) *Dead end.* A street other than a cul-de-sac, with only one outlet.

(5) *Local.* The sole function of local streets is to provide access to adjacent land and act as a connection to the collector system.

Studio shall mean the workshop of an artist, sculptor, photographer, or craftsperson.

Structural alterations shall mean any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

Structure shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.

Subdivision shall mean any division of property for which a plat is required to be approved and recorded under the provisions of V.T.C.A., Local Government Code ch. 211; the Texas Municipal Annexation Act (V.T.C.A., Local Government Code ch. 43); and under this chapter. The term "subdivision" shall mean the division of a lot, tract, or parcel of land situated within the corporate limits of the City, or within the City's extraterritorial jurisdiction into 2 or more parts, lots, plats, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or laying out any subdivision of any tract of land or any addition of the City, or for laying out suburban lots or building lots or any lots and streets, alleys, or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereupon or adjacent thereto. The term "subdivision" shall include replatting, resubdivision and, when in the context shall relate to the process of subdividing of the land or area. The term "resubdivision" shall mean the division of an existing subdivision, together with any change of lot size therein, or with the relocation of any street lines; however, it does not include the division of land for agricultural purposes in parcels or tracts of 5 acres or more and not involving any new street, alley or easement of access. A major subdivision is a subdivision consisting of more than one phase of development.

Surveyor shall mean a licensed state land surveyor or a registered professional land surveyor, as authorized by the Professional Land Surveying Practices Act (V.T.C.A., Occupations Code ch. 1071).

Tattoo/body piercing studio shall mean the workshop of a tattoo artist, and/or a facility where the piercing of body parts, other than ears, is performed for purposes of allowing the insertion of jewelry.

Theater--Indoor shall mean a building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performances.

Theater--Outdoor (amphitheater) shall mean an outdoor area and associated structures devoted to the showing of motion pictures, or for dramatic, musical or live performances.

Townhouse shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.

Trade and commercial schools shall mean establishments, other than public or parochial schools, private primary or secondary schools, or colleges, offering training or instruction in a trade, art or occupation.

Trailer rental shall mean the display and offering for rent of trailers designed to be towed by light load vehicles.

Truck and bus repair shall mean an establishment providing major and minor automobile repair services to heavy load vehicles.

Truck parking lot shall mean area for parking heavy load vehicles.

Truck sales (heavy trucks) shall mean the display, sale or rental of new or used heavy load vehicles in operable condition.

Truck stop shall mean any building, land, area, or premises, or portion thereof used for the retail dispensing or sales of fuels, lubricants and accessories commonly utilized by heavy load vehicles, but not including those uses listed under major automobile repair, as applying to heavy load vehicles.

Utility distribution/transmission lines shall mean facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to electrical transmission lines, gas transmission lines and metering stations.

Variance shall mean an adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the Zoning Board of Adjustment of the City can grant a variance.

Veterinary services shall mean an establishment, with or without outside pens or runs, where animals and pets are admitted for examination and medical treatment.

Vicinity map shall have the meaning assigned in Sec. 62-1 of the Land and Site Development Ordinance.

Warehouse shall mean a building used primarily for the storage of goods and materials.

Wholesale operation shall mean a place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wrecking yard shall mean the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot of 2 or more motor vehicles of any kind which are incapable of being operated due to condition or lack of license have been placed for the purpose of obtaining parts for recycling or resale.

Zero lot line dwelling. Same as "patio home."

Zoning district map shall mean the official map, labeled Exhibit "A", upon which the boundaries of the various zoning districts are drawn and which is an integral part of the Zoning Ordinance.

Zoning official shall mean the official or other designated authority charged with the administration and enforcement of the Zoning Ordinance.

Sec. 130-4 Zoning district map.

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

(a) One original of the zoning district map shall be filed in the office of the City Secretary and labeled as Exhibit "A." This copy shall be the official zoning district map and shall bear the signature of the mayor and attestation of the City Secretary. This copy shall not be changed in any manner. In case of any question, this copy, together with any amending ordinances, shall be controlling.

(b) The current zoning district map shall be placed in the office of the City Planner. The copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments and shall be identified as the official zoning map. Reproductions for informational purposes may be made of the official zoning district map.

Sec. 130-5 Zoning district boundaries.

The zoning district boundary lines shown on the zoning district map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerline.

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

(c) Boundaries indicated as approximately following City limits shall be construed as following City limits.

(d) Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.

(e) Boundaries indicated as following lake shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of all bodies of water shall be construed to follow such centerline and, in the event of change in the centerline, shall be construed to move with such centerline.

(f) Boundaries indicated as parallel to or extensions of features indicated in Sec. 130-5(a) through Sec. 130-5(e) shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.

(g) Whenever any street, alley, or other public way is vacated by official action of the City Council or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

(h) The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street unless as a condition of zoning approval it is stated that the zoning classification shall not apply to the street.

(i) Where physical features on the ground are at variance with information shown on the official zoning district map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of Sec. 130-5(a) through Sec. 130-5(h), the property shall be considered as classified A-O, Agricultural-Open District, in the same manner as provided for newly annexed territory.

(j) Permanent zoning changes made after the date of passage of the ordinance from which this chapter is derived are indicated in approximate locations on the zoning district map. For exact legal descriptions, refer to the adopting ordinance amendment for each particular permanent zoning change.

Sec. 130-6 Compliance required.

All land, buildings, structures, or appurtenances located thereon within the City, which are hereafter occupied, used, erected, altered, removed, placed, demolished, or converted shall be occupied, used, erected, altered, removed, placed, demolished, or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided or be subject to penalties as stated in Sec. 130-45.

Sec. 130-7 Zoning upon annexation.

Any territory hereafter annexed to the City and brought within its corporate limits shall be assigned a zoning classification upon annexation appropriate to its existing use in accordance with the procedures required by state law and this chapter, or shall be governed by the following regulations pending establishment of permanent zoning on such territory. In the event that these temporary regulations become applicable and no requests for permanent zoning classification have been made by the property owners within one year of the date of annexation, the Planning and Zoning Commission shall initiate a request for permanent classification, using the procedures established in this chapter. The following regulations are applicable to all property not assigned a permanent zoning classification at the time of annexation:

(a) No person shall erect, construct, proceed, or continue with the erection or construction of any building or structure, or cause the same to be done in any newly annexed territory to the City without first applying for and obtaining a building permit or certificate of occupancy from the Chief Building Official.

(b) No permit for the construction of a building or use of land shall be issued by the Chief Building Official other than a permit which will allow the construction of a building or use permitted in the A-O, Agricultural-Open District, unless and until such territory has been classified in a zoning district other than the A-O District by the City Council in the manner prescribed by this chapter.

Article II. "Zoning Districts"

Sec. 130-8 Zoning districts established.

(a) The City is hereby divided into the following zoning districts. The use, height, and area regulations as set out herein apply to each district. The districts established herein shall be known as:

Abbreviated Designation	**Zoning District Name**
A-O	Agricultural-Open District
RD-7	Residential District - 7
RD-5	Residential District - 5
MF	Multiple-Family District

Abbreviated Designation	Zoning District Name
DT-N	Downtown - North District
DT-S	Downtown - South District
DT-C	Downtown - Civic District
SC-B	South College - Business District
SC-R	South College - Residential District
C-1	Office District
C-2	Retail District
C-3	Commercial District
I	Industrial District

Abbreviated Designation	Special Purpose District Name
HP	Historic Preservation Overlay District
PD	Planned Development District
CO	Corridor Overlay District
MU-1	Mixed Use - Residential District
MU-2	Mixed Use District
R-NC	Residential - Neighborhood Conservation District

(b) Definitions and terms.

Certain words and terms used throughout this chapter are defined in Sec. 130-3.

Sec. 130-9 A-O, Agricultural-Open District.

(a) General purpose and description.

This district is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used primarily for agricultural purposes, but may become an urban area in the future. Generally, the A-O, Agricultural-Open District, will be near development, therefore the agricultural activities conducted in the A-O District, should not be detrimental to urban land uses. The types of uses, area, and intensity of uses permitted in this district encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made. The A-O District is also intended to protect areas that may be unsuitable for development because of physical problems, lack of infrastructure, space constraints, or potential health or safety hazards such as flooding, as well as providing for preservation of natural open space areas.

(b) Permitted uses.

- Accessory structures (See Sec. 130-34(a));
- Accessory dwelling unit (See Sec. 130-34(b));
- Cemetery;
- City of Bryan Fire Department Training Tower;
- City of Bryan Police Department Firing Range;
- Country club (private);
- Essential municipal uses;

- Farm, gardening, ranch, and agricultural operations, including field crops, orchards, horticulture, animal husbandry, but not including feed lots and poultry farms;
- Golf course;
- Government (federal or state) owned structures, facilities, and uses;
- Group homes;
- Home occupations;
- Kennel, commercial;
- Landscape service (with general outdoor storage);
- Nursery (greenhouse);
- Personal Care Homes;
- Place of worship;
- Private utilities (no general outdoor storage yards);
- Real estate sales offices during the development of residential subdivisions, but not to exceed 3 years;
- Recreational areas (operated by public, charitable or religious organizations)/community center;
- Sanitary landfill;
- Schools;
- Servant's quarters and quarters used by bona fide farm workers, or other accessory buildings such as barns, sheds, and other structures necessary for farming operations may be permitted, provided however, that no such accessory building or quarters to be used by servants or farm workers shall be occupied as a place of abode or dwelling by anyone other than a bona fide servant or farm worker actually regularly employed on the premises by the landowner or occupant of the main building;
- Single-family detached dwellings;
- Stables--Commercial (subject to the rules and regulations of the state health department);
- Stables--Private (subject to the rules and regulations of the state health department);
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Veterinary services with outdoor pens and runs.

(c) Conditional uses.

- Airport (public or private);
- Bed and breakfast;
- Charitable uses college or university;
- Commercial amusement (outdoor);
- Commercial landfill;
- Farm equipment sales and service;
- Feed store;
- Flea market;
- Fraternal and service organizations;
- Fraternity and sorority houses;
- Heliport or helistop;
- Hospital;
- Manufactured housing land lease community, 3 acres minimum park size;
- Manufactured homes on individual lots of one acre or more;
- Municipal services support facilities;
- General outdoor storage;
- Outdoor theater or amphitheater;

- Police station;
- Private utility company with general outdoor storage;
- Produce stand (seasonal);
- Racing track, public arena, or stadium;
- Recycling centers;
- Rodeo grounds;
- Recreational vehicle (RV) park;
- Soil, crushed rock, and gravel, general outdoor storage or sales.

(d) Lot area, height, and setback requirements.
See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.
See access and off-street parking in Article VI of Chapter 62.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, in Article III of Chapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(3) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(4) Outdoor storage and display is prohibited, except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in Sec. 130-34(m).

Sec. 130-10 RD-7, Residential District - 7000.

(a) General purpose and description.
The Residential District - 7000, is intended to be composed of detached dwelling units on lots of not less than 7,000 square feet. Detached dwelling units are designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses. Other uses may be permitted in this district which are compatible to residential uses and occupy structures designed for their intended use and do not infringe upon the residential uses.

(b) Permitted uses.
- Accessory structures (See Sec. Sec. 130-34(a));
- Detached dwelling units with no more than 4 unrelated persons;
- Essential municipal uses;
- Group home/community home;
- Government (federal or state) owned structures, facilities, and uses;
- Home occupations;
- Personal Care Homes;
- Place of worship;
- Private utilities (no general outdoor storage yards);
- Real estate sales offices during the development of residential subdivisions, but not to exceed 3 years;
- Schools;

- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(c) Conditional uses.

- Accessory dwelling unit (See Sec. 130-34(b));
- Accessory structure if greater than the standards set forth in Sec. Sec. 130-34(a);
- Bed and breakfast;
- Boarding (lodging) house;
- Child care--Class B;
- Country club or golf course;
- Duplex;
- Funeral home/mortuary;
- Neighborhood services;
- Nursing home (retirement home);
- Patio home (zero lot line dwelling);
- Police station;
- Professional offices (In the Eastside Historic District, the building must also be used as a primary dwelling by the owner, managing partner or majority shareholder of the business occupying the building);
- Community center/recreation center;
- Townhouses.

(d) Lot area, height, and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.

See access and off-street parking in Article VI of Chapter 62.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(2) Outdoor storage is prohibited (except for materials for the resident's personal use or consumption, i.e. firewood, gardening materials, etc.).

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of the nonresidential and multifamily development in Article III of Chapter 62, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Patio home, townhouse and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169, respectively.

(5) Professional offices, permitted conditionally in this district shall have one driveway. The minimum dimensions shall be 37 feet long by 18 feet wide so as to accommodate 4 vehicles on the site.

(6) Professional offices, conditionally permitted in this district shall have a minimum of 8 % of the site landscaped.

Sec. 130-11 RD-5, Residential District - 5000.

(a) General purpose and description.
The Residential District - 5000, is intended to provide for development of detached dwelling units on lots of not less than 5,000 square feet. Other uses, such as religious and educational facilities, and open spaces are provided to maintain a balanced, orderly, convenient, and attractive residential area. Certain uses, such as duplexes, may be permitted if used in a compatible manner with areas.

(b) Permitted uses.
Any use permitted in RD-7 District.

(c) Conditional uses.
Any conditional use allowed in the RD-7 District with the addition of:

- Halfway house.

(d) Lot area, height, and setback requirements.
See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.
See access and off-street parking in Article VI of Chapter 62.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(2) Outdoor storage is prohibited (except for materials for the resident's personal use or consumption, i.e. firewood, gardening materials, etc.).

(3) Patio homes shall be permitted only on lots specified for such a use in an approved plat (see Sec. 62-167 for criteria). Townhouse and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-168 and Sec. 62-169, respectively.

(4) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62 before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

Sec. 130-12. MF, Multiple-Family Residential District.

(a) General purpose and description.
The MF, Multiple-Family Residential District, is a residential district intended to provide the highest residential density of a maximum of 25 dwelling units per acre. The principal permitted land uses will include low-rise multifamily dwellings, garden apartments, condominiums,

duplexes, and townhouses. Recreational, religious, health and educational uses normally located to service residential areas are also permitted in this district. This district should be located adjacent to an arterial or collector, as shown on the Major Thoroughfare Plan, and serve as a buffer between retail/commercial development or heavy automobile traffic, and medium or low density residential development.

(b) Permitted uses.

Any use permitted in the RD-5 District with the addition of:

- Boardinghouse (lodging house);
- Child care--Class B;
- Common Open Space, Community Center, Recreational Building, and other facilities or amenities, provided they are intended for use by the residents of the multifamily development;
- Duplex;
- Essential municipal uses;
- Laundromats (self-service washateria);
- Multifamily dwelling (apartment building, triplex, four-plex), greater than 2 dwelling units per structure;
- Nursing home (retirement home);
- Personal Care Homes;
- Townhouses.

(c) Conditional uses.

Any conditional use allowed in the RD-5 District with the addition of:

- Dormitory;
- Fitness center;
- Fraternity and sorority houses;
- Funeral home/mortuary;
- Manufactured housing land lease communities;
- Municipal services support facilities;
- Nonpaid parking for nonresidential uses;
- Police station.

(d) Height regulations.

See building setbacks and lot standards in Article IV of Chapter 62.

(e) Lot area and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(f) Parking regulations.

See access and off-street parking in Article VI of Chapter 62.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(h) Special district requirements.

(1) Single-family units constructed in this district shall conform to RD-5 District standards.

(2) No temporary structures, such as travel trailers, recreational vehicles, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(3) Outdoor storage is prohibited.

(4) A paved walkway shall connect the front door of each ground floor unit in a multifamily development to a parking area.

(5) See Sec. 62-167, Sec. 62-168 and Sec. 62-169 for patio home, townhouse, and duplex development criteria.

(6) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62 before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

Sec. 130-13 C-1, Office District.

(a) General purpose and description.

The C-1, Office District is established to create a flexible district for low intensity office and professional uses generally in smaller buildings. Some light intensity retail uses are also permitted. Permitted uses should be compatible with adjacent residential areas by limiting heights to 2 stories and utilizing buffers and landscape materials. Adaptive reuse of existing structures is encouraged. Sites zoned office may be built over 2 stories, subject to certain restrictions, if located such that they will not adversely impact any properties zoned or used for a single-family use. Buildings and structures in this district should strive for architectural compatibility.

(b) Permitted uses.

- Accessory or incidental uses to the main use (snack or food bars, automatic teller machines, etc.);
- Accessory structure (See Sec. 130-34(a));
- Assisted Living Facilities;
- Banks, savings and loans or credit union offices;
- Charitable uses;
- Child care--Class B;
- Child care--Class C;
- Essential municipal uses;
- Recreational/community center;
- Fraternal/service organization;
- General office use (professional, administrative);
- Government (federal or state) owned structures, facilities, or uses;
- Hospital;
- Kiosk;
- Laboratory (scientific, research, medical, optical);
- Medical facilities or clinics;
- Museum/art gallery;
- Personal service shop or custom personal services;
- Pharmacies;
- Photography studio;
- Place of worship;
- Police station;
- Private utility office (no repair or outdoor storage);
- Radio or television broadcasting studio (without tower);

- Nursing home (retirement home);
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Veterinary services (no outdoor pens or runs).

(c) Conditional uses.

- College or university;
- Duplex;
- Fitness center;
- Funeral home/mortuary;
- Heliport or helistop;
- Micro-assembly;
- Multifamily dwelling;
- Municipal services support facilities;
- Oil and gas well operations;
- Patio home (zero lot line dwelling);
- Personal Care Homes;
- Restaurant or cafeteria;
- Reception hall;
- Single-family detached dwelling;
- Studios;
- Theater--Indoor;
- Townhouse.

(d) Height regulations.

See building setbacks and lot standards in Article IV of Chapter 62.

(e) Lot area and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(f) Parking regulations.

See access and off-street parking in Article VI of Chapter 62.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Outdoor storage and display is prohibited, except as may be provided for in Sec. 130-34(m).

(3) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(4) Single-family detached dwellings permitted in this district shall conform to standards as specified in the RD-5 District.

(5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62 before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(7) Patio home, townhouse, and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169, respectively.

(8) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

Sec. 130-14 C-2, Retail District.

(a) General purpose and description.

The C-2, Retail District is established to provide locations for various types of general retail trade, business and service uses. The district allows shopping areas or uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods. These shopping areas should utilize established landscape and buffering requirements and generally be limited to 2 stories in height. The C-2 District should be located along or at the intersection of major collectors or arterials to accommodate higher traffic volumes. Under certain conditions, high-rise offices may be permitted if proper buffering and transition treatment is provided from residential districts.

(b) *Permitted uses.*

Any permitted use in the C-1 District with the addition of:

- Automobile service station;
- Bed and breakfast;
- Boardinghouse (lodging house);
- Business or trade school;
- Commercial amusement (indoor);
- Dance studio;
- Fitness center;
- Funeral home/mortuary;
- Gaming establishments;
- Indoor archery and shooting range;
- Laundromats (self-service washateria);
- Micro-assembly;
- Motel or hotel;
- Nursery (greenhouse);
- Package liquor store;
- Parking lots or garages, commercial;
- Pawnshop that has been licensed to transact business by the state consumer credit commissioner under V.T.C.A., Finance Code ch. 371;
- Reception hall;
- Retail services (including incidental uses);
- Restaurant;
- Studio;
- Tattoo/piercing studio (see Sec. 130-34(n));
- Theater--Indoor.

(c) Conditional uses.

Any conditional use allowed in the C-1 District with the addition of:

- Automobile repair/sales/rental;
- Boat repair/sales/rental;

- Commercial amusement (outdoor);
- Credit access business (see Sec. 130-34(o));
- Heating or air conditioning sales or service;
- Heliport or helistop;
- Ice company sales--Wholesale;
- Mini-warehouse or self-storage;
- Motorcycle sales/rental/service;
- Moving company;
- Night club or tavern(<= 5,000 square feet);
- Office--Showroom/warehouse;
- Theater--Outdoor;
- Printing company;
- Recycling collection point;
- Trailer rental;
- Truck rental.

(d) Height regulations.
See building setbacks and lot standards in Article IV of Chapter 62.

(e) Lot area and setback requirements.
See building setbacks and lot standards in Article IV of Chapter 62.

(f) Parking regulations.
See access and off-street parking in Article VI of Chapter 62.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Outdoor storage and display is prohibited, except as may be provided for in Sec. 130-34(m).

(3) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(4) Single-family detached dwelling permitted in this district shall conform to standards as specified in the RD-5 District. Patio home, townhouse, and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169, respectively.

(5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62 before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(7) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Noise above the average intensity of street traffic is discernible beyond the property line.

d. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(8) Wireless telecommunications facilities shall be allowed only as provided for in Sec. 130-35.

Sec. 130-15 C-3, Commercial District.

(a) General purpose and description.

The C-3, Commercial District is intended predominantly for heavy retail and commercial uses of a service nature which typically have operating characteristics or traffic service requirements generally compatible with typical retail or shopping, but generally not with residential environments. Operating characteristics which may be typical of uses permitted in the C-3 District include service oriented, may sell used goods, require warehouse storage and delivery areas, and have a greater service radius than retail stores.

(b) Permitted uses.

Any permitted use allowed in the C-2 District with the addition of:

- Amusement arcade (video arcade);
- Automobile repair;
- Automobile sales/rental/service;
- Boat sales/rental/service;
- Bus terminal/station;
- Commercial amusement, (indoor);
- Commercial amusement, (outdoor);
- Commercial bakery;
- Farm equipment sales and service;
- Feed store;
- Fraternity/sorority house;
- Gaming establishments;
- Ice company (sales);
- Ice company (wholesale);
- Indoor archery and shooting range;
- Landscape service;
- Laundries, commercial;
- Lumberyard;
- Manufactured home display and sales;
- Micro-assembly;
- Mini-warehouse/self-storage;
- Motorcycle sales/rental/service;
- Nightclub or tavern;
- Office--Showroom/warehouse;
- Theater--Outdoor (amphitheater);
- Overnight delivery company;
- Paper/chemical suppliers;
- Parking lots (nonpaid for nonresidential use);

- Plumbing service;
- Portable/small commercial structures--Permanent;
- Portable/small commercial structures--Seasonal;
- Printing company;
- Private utility company (with general outdoor storage);
- Recycling collection point;
- Recreational vehicle (RV) park;
- Tool and machinery rental;
- Truck repair/truck stop;
- Veterinary services (no outdoor runs or pens).

(c) Conditional uses.

Any conditional use allowed in the C-2 District with the exception of credit access business, and the addition of:

- Cabinet shop;
- Cemetery;
- College or university;
- Flea market;
- Golf course or country club;
- Heliport or helistop;
- Manufacturing;
- Machine shop;
- Moving company;
- Multifamily dwelling;
- Recovery facility;
- Refuse systems;
- Rodeo grounds;
- Stable--Commercial.

(d) Height regulations.

See building setbacks and lot standards in Article IV of Chapter 62.

(e) Lot area and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(f) Parking regulations.

See access and off-street parking in Article VI of Chapter 62.

(g) Other regulations.

(1) As established in all other applicable sections and/or ordinances.

(2) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(3) Single-family detached dwelling permitted in this district shall conform to standards as specified in the RD-5 District. Patio home, townhouse, and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169, respectively.

(4) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62 before activity on the

property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(5) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(6) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Noise above the average intensity of street traffic is discernible beyond the property line.

d. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(7) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(8) The following regulations pertain to portable/small commercial structures-permanent which are permitted in this district.

a. See building setbacks and lot standards in Article IV of Chapter 62.

b. All fire code requirements must be met.

c. A written agreement with the property owner for trash pickup must be provided.

d. All parking requirements must be met.

e. No portable/small commercial structures shall be allowed in parking lots that do not meet current construction standards or do not presently have an excess of parking for the existing structures utilizing the lot.

f. The Site Development Review Committee must approve vehicle circulation.

g. The structure must be properly anchored, either to the surface of the lot or it must be on a permanent foundation.

h. Landscaping must front a minimum of 10% of the building's facade. Acceptable landscaping of portable/small commercial structures includes the following: raised planter boxes and at grade planting beds.

i. Restroom facilities for the employer and employees must be provided either inside the structure or via an agreement with the owner of the main structure on the site.

(9) The following regulations pertain to portable/small commercial structures-seasonal which are permitted in this district. Certificate of occupancies for portable/small commercial structures-seasonal shall be granted for a maximum of 60 days, after which time the structure must be removed from the site. An additional certificate of occupancy shall not be granted for the same business for a minimum of 6 months.

(10) Outdoor storage and display is prohibited, except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc., or as may be provided for in Sec. 130-34(m).

Sec. 130-16 DT, Downtown Districts.

The Downtown Districts are established to accommodate existing development and to promote future development in the central area of the City, and to protect the character of the downtown area. They recognize the unique characteristics of each section of downtown and its space limitations. The Downtown Bryan Master Plan, adopted in October 2001, recommends that the Downtown District be extended from its current boundaries to create a cohesive urban fabric.

Sec. 130-17 DT-N, Downtown - North District.

(a) General purpose and description.

The DT-N, Downtown - North District is established to accommodate existing developments and to promote new development in an area which provides for various types of residential uses as well as general retail, office, business and service uses. The district encourages high density residential development and retail uses to support a residential community.

(b) Permitted uses.

- Apartment building;
- Assisted Living Facilities;
- Banks, savings and loans or credit unions;
- Child care--Class B;
- Child care--Class C;
- Condominiums;
- Dance studio;
- Department store (discount/variety);
- Essential municipal uses;
- Fitness center;
- General office use (professional, administrative, etc.);
- Government (federal or state) owned structures, facilities, and uses;
- Kiosk;
- Laundromats (self-service washateria);
- Loft apartments;
- Motel/hotel;
- Museum/art gallery;
- Neighborhood services (as defined in Sec. 130-34(j));
- Nightclub or tavern (5,000 square feet or less);
- Nursing home (retirement home);
- Package liquor store;
- Parking lot or garage, commercial or nonpaid for nonresidential use;
- Personal service shop or custom personal services;
- Pharmacies;
- Photography studio;
- Place of worship;
- Radio or television broadcasting studio (without tower);
- Restaurant, cafeteria;
- Retail--General;

- Schools;
- Studio;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Townhouses;
- Veterinary services (no outside runs or pens).

(c) Conditional uses.

- Municipal services support facilities;
- Nightclub or tavern (greater than 5,000 square feet);
- Police station;
- Theater (indoor).

(d) Lot area, height, and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.

See access and off-street parking regulations in Article VI of Chapter 62.

(f) Architectural regulations.

Building permits within the DT-N District will not be issued prior to the review and approval of the City Planner or his or her designee to assure that new construction and/or additions to existing structures are in keeping with the significant architectural, historic, or cultural elements of the district. Regulations affecting the exterior of the building will be in accordance with the City's Design Guidelines for the Downtown Historic District and Other Local Commercial Historic Resources, and the Downtown Bryan Master Plan.

(g) Other regulations.

(1) Outdoor storage and display is prohibited, except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in Sec. 130-34(m).

(2) Establishments selling alcoholic beverages within the DT-N District shall be exempt from any regulations regarding their proximity to a public school, church, or a public hospital.

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of Chapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Temporary structures including, but not limited to recreational vehicles, travel trailers, manufactured homes, or mobile homes will not be permitted in the DT-N District.

(5) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(6) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(7) Special use licenses within the DT-N District shall be allowed only as provided for in Sec. 62-251.

Sec. 130-18 DT-S, Downtown - South District.

(a) General purpose and description.

The DT-S, Downtown - South District is established to accommodate existing developments and to promote new development in an area which traditionally provided for various types of general retail, office, business and service uses while encouraging secondary residential uses on the upper floors of buildings.

(b) Permitted uses.

- Assisted Living Facilities;
- Banks, savings and loans or credit unions;
- Child care--Class B;
- Child care--Class C;
- Commercial amusement (indoor);
- Condominiums;
- Dance studio;
- Department store (discount/variety);
- Essential municipal uses;
- Fitness center;
- General office use (professional, administrative, etc.);
- Government (federal or state) owned structures, facilities, and uses;
- Hospital;
- Kiosk;
- Laundromats (self-service washateria);
- Loft apartments;
- Medical clinics;
- Motel/hotel;
- Museum/art gallery;
- Nightclub or tavern (5,000 square feet. or less);
- Outdoor theater (amphitheater);
- Package liquor store;
- Personal service shop or custom personal services;
- Photography studio;
- Place of worship;
- Radio or television broadcasting studio (without tower);
- Restaurant, cafeteria;
- Retail--General;
- Schools;
- Studio;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Theater (indoor);
- Veterinary services (no outside runs or pens).

(c) Conditional uses.

- College or university;

- Municipal services support facilities;
- Nightclub or tavern (greater than 5,000 square feet);
- Police station;
- Roof-top heliport or helistop;
- Tattoo studio (see Sec. 130-34(n)).

(d) Lot area, height, and setback requirements.
See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.
See access and off-street parking regulations in Article VI of Chapter 62.

(f) Architectural regulations.
Building permits within the DT-S District will not be issued prior to the review and approval of the City Planner or his or her designee to assure that new construction and/or additions to existing structures are in keeping with the significant architectural, historic, or cultural elements of the district. Regulations affecting the exterior of the building will be in accordance with the City's Design Guidelines for the Downtown Historic District and Other Local Commercial Historic Resources, and the Downtown Bryan Master Plan.

(g) Other regulations.

(1) Establishments selling alcoholic beverages within the DT-S District shall be exempt from any regulations regarding their proximity to a public school, church, or a public hospital.

(2) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of Chapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(3) Temporary structures including, but not limited to recreational vehicles, travel trailers, manufactured homes, or mobile homes will not be permitted in the DT-S District.

(4) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(5) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(6) Special use licenses within the DT-S District shall be allowed only as provided for in Sec. 62-251.

(7) Outdoor storage and display is prohibited, except for materials for the resident’s personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in Sec. 130-34(m).

Sec. 130-19 DT-C, Downtown - Civic District.

(a) General purpose and description.

The DT-C, Downtown - Civic District is established to accommodate existing developments and to promote new development in an area which provides for various types of civic uses as well as general retail, office, business and service uses.

(b) Permitted uses.

- Assisted Living Facility;
- Banks, savings and loans or credit unions;
- Bus terminal/station;
- Business or trade school;
- Charitable uses;
- Child care--Class B;
- Child care--Class C;
- Community/recreational center;
- Courthouse (municipal, state or federal);
- Essential municipal uses;
- Fitness center;
- Fraternal/service organizations;
- General office use (professional, administrative, etc.);
- Government (federal or state) owned structures, facilities, and uses;
- Hospital;
- Kiosk;
- Medical clinics, health care services;
- Museum/art gallery;
- Parking lot or garage, commercial or nonpaid for nonresidential use;
- Place of worship;
- Police station;
- Private utility office (no repair or outdoor storage);
- Radio or television broadcasting studio (without tower);
- Restaurant, cafeteria;
- Retail--General;
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(c) Conditional uses.

- College or university;
- Loft apartments;
- Municipal services support facilities;
- Personal Care Homes;
- Roof-top heliport or helistop;
- Single-family detached dwelling units;
- Townhouses.

(d) Lot area, height, and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.

See access and off-street parking regulations in Article VI of Chapter 62.

(f) Architectural regulations.

Building permits within the DT-C District will not be issued prior to the review and approval of the City Planner or his or her designee to assure that new construction and/or additions to existing structures are in keeping with the significant architectural, historic, or cultural elements of the district. Regulations affecting the exterior of the building will be in accordance with the City's Design Guidelines for the Downtown Historic District and Other Local Commercial Historic Resources, and the Downtown Bryan Master Plan.

(g) Other regulations.

(1) Outdoor storage and display is prohibited, except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in Sec. 130-34(m).

(2) Establishments selling alcoholic beverages within the DT-C District shall be exempt from any regulations regarding their proximity to a public school, church, or a public hospital.

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of Chapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Temporary structures including, but not limited to recreational vehicles, travel trailers, manufactured homes, or mobile homes will not be permitted in the DT-C District.

(5) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(6) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(7) Special use licenses within the DT-C District shall be allowed only as provided for in Sec. 62-251.

Sec. 130-20 SC, South College Districts.

The South College Districts are established to protect existing development and to promote future development, while maintaining the unique character along South College Avenue. The establishment of the South College Districts is one vital step in implementing The South College Avenue Corridor Redevelopment Plan, adopted in February 2001.

Sec. 130-21 SC-B, South College - Business District.

(a) General purpose and description.

The SC-B, South College - Business District is established to provide locations for various types of general retail trade, business and service uses. The district allows uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods. These areas

should utilize established landscape and screening requirements to be compatible with the residential uses while adding diversity to the South College Corridor.

(b) Permitted uses.

- Accessory or incidental uses to the main use;
- Accessory structure (See Sec. 130-34(a));
- Assisted Living Facilities;
- Bakery, commercial;
- Banks, savings, and loans or credit union offices;
- Barbershops and beauty salons;
- Bed and breakfast facility;
- Boardinghouse or lodginghouse;
- Bus terminal/station;
- Business or trade school;
- Charitable uses;
- Child care--Class B;
- Child care--Class C;
- Commercial amusement (indoor);
- Community/recreational center;
- Dance studio;
- Day spa;
- Engraving shop;
- Essential municipal uses;
- Fitness center;
- Fraternal/service organization;
- Funeral home/mortuary;
- Gasoline or service station;
- General office use;
- Government (federal or state) owned structures, facilities, or uses;
- Greenhouse/nursery (retail sales, outdoor plant display permitted);
- Hardware store;
- Kiosk;
- Laboratory (medical, optical);
- Laundromats/cleaners;
- Medical clinics, health care services;
- Micro-assembly;
- Motel, hotel;
- Museum/art gallery;
- Nightclub or tavern (5,000 square feet or less);
- Package liquor store;
- Pharmacies;
- Photography studio;
- Place of worship;
- Private utility office (no repair or outdoor storage);
- Radio or television broadcasting studio;
- Restaurant or cafeteria;
- Retail services;
- Schools;

- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Veterinary services (no outdoor pens or runs).

(c) Conditional uses.

- Automobile repair (no outdoor storage);
- Automobile sales/rental/service (no outdoor storage or display area);
- Boat sales/rental/service (no outdoor storage or display area);
- Cabinet shop;
- Commercial amusement (outdoor);
- Courthouse (municipal, state or federal);
- Duplex;
- Fraternity/sorority house;
- Gaming establishments;
- Heating or air conditioning sales or service;
- Indoor archery and shooting range;
- Mini-warehouse/ self-storage;
- Motorcycle sales/rental/service (no outdoor storage);
- Multifamily dwelling;
- Municipal services support facilities;
- Nightclub or tavern (greater than 5,000 square feet);
- Patio home;
- Personal Care Homes;
- Plumbing service;
- Police station;
- Printing company;
- Retirement or nursing home;
- Roofing/siding company;
- Single-family detached dwelling;
- Townhouse.

(d) Height regulations.

See building setbacks and lot standards in Article IV of Chapter 62.

(e) Lot area and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(f) Parking regulations.

See access and off-street parking in Article VI of Chapter 62.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Outdoor storage is prohibited, including the outdoor display or storage of vehicles. Outdoor plant displays are permitted where a greenhouse is a permitted use. Sidewalk display and outdoor display shall be permitted as provided for in Sec. 130-34(m).

(3) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(4) Single-family detached dwelling permitted conditionally in this district shall conform to standards as specified in the RD-5 district. Patio home, townhouse, and duplex dwellings

permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169, respectively.

(5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of Chapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(7) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Noise above the average intensity of street traffic is discernible beyond the property line.

d. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(8) Wireless telecommunications facilities shall be allowed only as provided for in Sec. 130-35.

Sec. 130-22 SC-R, South College - Residential District.

(a) General purpose and description.

The SC-R, South College - Residential District is intended to be composed of detached, single-family dwelling units. Single-family dwellings are designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses. Other uses may be permitted in this district which are compatible to single-family uses and that will enhance the overall aesthetics of the South College Corridor. The uses permitted conditionally shall be designed for their intended use and not infringe upon the residential uses.

(b) Permitted uses.

- Accessory structures 725 square feet or less in area (See Sec. 130-34(a));
- Essential municipal uses;
- Government owned structures, facilities, and uses;
- Group Homes/Community Homes;
- Home occupations;
- Personal Care Homes;
- Place of worship;
- Private utilities (no outdoor storage yards);
- Schools;
- Single-family detached dwelling units;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(c) Conditional uses.

- Accessory dwelling unit;

- Accessory structure in excess of 725 square feet;
- Bed and breakfast;
- Boardinghouse or lodginghouse;
- Child care--Class B;
- Child care--Class C;
- Community/recreation center;
- Duplex;
- Fraternity/sorority house;
- Funeral home/mortuary;
- Multifamily dwelling;
- Municipal services support facilities;
- Neighborhood services;
- Patio home (zero lot line dwelling--minimum of 3 lots);
- Police station;
- Professional offices;
- Retirement or nursing home;
- Townhouses.

(d) Lot area, height, and setback requirements.
See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.
See access and off-street parking in Article VI of Chapter 62.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(2) Outdoor storage is prohibited (except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc.).

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of the Chapter 62, before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Patio home townhouse and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169, respectively.

(5) Professional offices, permitted conditionally in this district shall have one driveway. The minimum dimensions shall be 40 feet long by 18 feet wide so as to accommodate 4 vehicles on the site.

(6) Professional offices, conditionally permitted in this district shall have a minimum of 8% of the site landscaped.

Sec. 130-23 I, Industrial District.

(a) General purpose and description.

The I, Industrial District is intended primarily for the conduct of manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations which may depend upon frequent customer or client visits. Such uses do require accessibility to major highways, rail lines or other means of transportation requiring the distribution of goods.

(b) Permitted uses.

- Accessory/incidental uses to the main use;
- Adult entertainment;
- Airport/airfield (public or private);
- Antenna, commercial;
- Automobile repair;
- Auto sales/rental/service;
- Boat sales/rental/service;
- Building materials/hardware;
- Bus terminal/station;
- Cabinet shop;
- Cemetery;
- City of Bryan Fire Department Training Tower;
- Commercial amusement (indoor);
- Commercial bakery;
- Commercial laundries;
- Concrete or asphalt batching plant;
- Essential municipal uses;
- Fabrication;
- Farm equipment sales and service;
- Feed store;
- Flea market;
- Gaming establishments;
- Government (federal or state) owned structures, facilities, and uses;
- Heating and air conditioning sales and service;
- Ice company--Sales;
- Ice company--Wholesale;
- Incidental living quarters;
- Indoor archery or shooting range;
- Landscape service;
- Lumberyard;
- Machine shop;
- Manufacturing;
- Mini-warehouse/self-storage;
- Motorcycle sales/rental/service;
- Moving company;
- Nightclub/tavern;
- Office--Showroom/warehouse;
- Oil and gas well operations;
- Oil field equipment industrial outdoor storage yard;
- Industrial outdoor storage of materials and goods;

- Overnight delivery company;
- Paper/chemical suppliers;
- Place of worship;
- Plumbing shop;
- Power plants;
- Printing company;
- Public utility company with industrial outdoor storage;
- Recycling centers;
- Recycling collection point;
- Recreational/community center;
- Refuse systems;
- Restaurant;
- Roofing and siding company;
- Service facilities owned and operated by other municipalities;
- Service operations;
- Soil, crushed rock, gravel sales and industrial outdoor storage;
- Tattoo/piercing studio (see Sec. 130-34(n));
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Tool and machinery rental;
- Trailer rental;
- Truck rental;
- Truck repair/truck stop;
- Trucking company;
- Veterinary services with outdoor pens and runs;
- Warehousing;
- Well service operations;
- Wholesale operations;
- Wrecking yards (junkyards).

(c) Conditional uses.

- Commercial amusement (outdoor);
- Heliport/helistop;
- Municipal services support facilities;
- Recovery facility.

(d) Maximum height.

None, unless adjacent to a residential district, then an additional two 2 feet setback for every one foot in height shall be observed adjacent to any residential property line. See building setbacks and lot standards in Article IV of Chapter 62.

(e) Lot area and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(f) Parking regulations.

See access off-street parking in Article VI of Chapter 62.

(g) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Incidental living quarters for employees required by job duties to remain on the site for limited periods are permitted. Such quarters shall be provided in permanent structures that are an integral part of the use associated permitted in this district.

(3) Adult entertainment uses permitted in this district shall not be located within 1,000 feet of a public school, public hospital, church, or residential district. The distance shall be measured from the front (main) door of the adult entertainment establishment to the front (main) door of a school, hospital, or church, or to a residential district boundary. Adult entertainment uses shall not be located within 1,000 feet of another adult entertainment use. The distance shall be measured from the front (main) door of the adult entertainment establishment to the front (main) door of another adult entertainment establishment.

(4) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62 before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(7) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(h) Performance standards.

The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the City, in which:

(1) Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

(2) Vibration is discernible beyond the property line.

(3) Noise above the average intensity of street traffic is discernible beyond the property line.

(4) Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

Sec. 130-24 HP, Historic Preservation Overlay District.

(a) General purpose and description.

The City Council of Bryan, Texas hereby declares that as a matter of public policy the preservation, protection, enhancement, and perpetuation of properties of historic and cultural importance and significance are necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the City of Bryan represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This section is intended to:

(1) preserve, protect and enhance the properties which represent distinctive elements of Bryan's historic, architectural, and cultural heritage;

(2) foster civic pride in the accomplishments of the past;

(3) preserve, protect and enhance Bryan's attractiveness to visitors and the support and stimulus to the economy thereby provided;

(4) insure the harmonious, orderly, and efficient growth and development of the City;

(5) promote economic prosperity and welfare of the community;

(6) encourage stabilization, restoration, and improvements of such properties and their values.

(b) Criteria for Designation of Historic Preservation Overlay District

A historic preservation overlay district may be designated if it meets any of the following criteria:

(1) Possesses significance in history, architecture, archeology, or culture;

(2) Embodies the distinctive characteristics of a type, period, or method of construction;

(3) Represents the work of a master designer, builder, or craftsman;

(4) Represents an established and familiar visual feature of the City;

(5) Meets the criteria established by the National Register of Historic Places;

(6) Exemplification of the cultural, economic, social, ethnic or historical heritage of the City, state or nation;

(7) Location as the site of a significant historical event; and

(8) Identification with a person or persons who significantly contributed to the culture and development of the City, state or nation.

(c) Designation of Historic Preservation Overlay District

(1) These provisions pertain to the designation of historic property/properties by creating the Historic Preservation Overlay District, a part of this Zoning Ordinance.

(2) Eligible applicants are:

a. Property owner or 60% of property owners in a proposed district consisting of more than one property (1 vote per property);

b. Historic Landmark Commission, Planning and Zoning Commission, or City Council;

c. Historic Preservation Officer.

(3) Applications to increase, decrease or establish boundaries of a historic preservation overlay district must include:

a. A legal description of the boundaries of the district;

b. A photograph or photographs of each contributing building, structure, site, area or land;

c. A description of all buildings, structure, site, area or land showing the condition, color, and architectural style of each and:

1. Date of construction, if known;

2. Builder or architect, if known;

3. Chain of uses and ownership;

4. Building materials;

5. Construction technique;

6. Summary of recognition of state or national government including reason designated, if applicable.

d. A statement of reasons for recommending designation or changes to the district, including a list of contributing buildings, structures, sites, areas or lands of importance and a description of the particular importance of each contributing building, structure, site, area or land;

e. Findings supporting establishment of or change to the district according to the criteria in this section and indicating the particular importance or value of the district;

f. Signature of applicant. Eligible applicants are: property owner [or 60% of owners (1 vote per property) in a proposed district of more than 1 property]; Historic Landmark Commission (as established in Chapter 2); or Historic Preservation Officer.

(4) The Historic Landmark Commission shall conduct a public hearing on the proposed historic preservation overlay district. At the Historic Landmark Commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic preservation overlay district. The Historic Landmark Commission shall prepare a recommendation on the proposed change stating its findings, and evaluation within 45 days subsequent to the hearing on the proposed designation.

(5) Upon recommendation of the Historic Landmark Commission, the proposed historic preservation overlay district shall be submitted to the Planning and Zoning Commission within 45 days from the date of the Historic Landmark Commission's recommendation. After a recommendation by the Historic Landmark Commission, all proposed historic preservation overlay districts shall follow procedures set forth in Sec. 130-42.

(6) Upon designation of a historic preservation overlay district, the City Council shall cause the designation to be recorded in the official zoning maps of the City of Bryan.

(d) Certificate of Appropriateness affecting Historic Preservation Overlay Districts.
Construction, reconstruction, alteration, restoration, rehabilitation, relocation, demolition, or any change visible from a public right-of-way of any historic property within a Historic Preservation Overlay District shall not occur without prior approval of a Certificate of Appropriateness from the Historic Landmark Commission. The Building Official, Historic Preservation Officer, or his/her designee shall not issue a building permit without a Certificate of Appropriateness having been granted.

(e) Criteria for approval of a certificate of appropriateness.
In considering an application for a Certificate of Appropriateness, the Historic Landmark Commission shall be guided by any adopted design guidelines, and where applicable, the following from The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings. Any adopted design guidelines and Secretary of the Interior's Standards shall be on file within the Planning and Development Services Department and made available to the public.

(1) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.

(2) The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(3) All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, object, or site shall be kept when possible.

(6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.

(8) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.

(9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

(10) Whenever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

(11) Any design guidelines adopted by the Historic Landmark Commission or City Council.

(f) Certificate of Appropriateness Application Procedure

(1) Prior to the commencement of any work in the Historic Preservation Overlay District requiring a Certificate of Appropriateness the owner shall file an application for such a certificate with the Historic Landmark Commission. The application shall contain:

a. Name, address, telephone number of applicant.

b. Detailed description of proposed work.

c. Location and photograph of the property, including historic photographs, if available.

d. Elevation drawings of the proposed changes, if applicable.

e. Samples of materials to be used.

f. If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.

(2) Building permits shall not be issued for such proposed work until a Certificate of Appropriateness has first been issued by the Historic Landmark Commission. The Certificate of Appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the City of Bryan.

(3) The Historic Landmark Commission shall review the application during a public meeting within 45 days from the date the application is received. The Historic Landmark Commission shall act upon the Certificate of Appropriateness within 45 days after the meeting. In the event the Historic Landmark Commission does not act within 90 days of the receipt of the application, a Certificate of Appropriateness shall be deemed granted. The Historic Landmark Commission's decision is limited to approve, approve with modifications; suspension of action for a specified time or deny.

(4) All decisions of the Historic Landmark Commission shall be in writing and shall state its findings pertaining to the application. A copy shall be sent to the applicant. Additional copies shall be filed as part of the public record on the subject property.

(5) An applicant for a Certificate of Appropriateness may appeal the decision of the Historic Landmark Commission to the City Council within 10 days after such action.

(6) Certificate of Appropriateness' are valid for a period of one year. Any work not completed within a one year period shall require a new Certificate of Appropriateness to be issued by the Historic Landmark Commission.

(g) Economic Hardship Application Procedure

(1) After receiving written notification from the Historic Landmark Commission of the denial of Certificate of Appropriateness, an applicant may commence the hardship process to obtain necessary building or demolition permits. No building permit or demolition permit shall be issued unless the Historic Landmark Commission makes a finding that hardship exists. When a claim of economic hardship is made due to the effect of this Ordinance, the owner must demonstrate to the Historic Landmark Commission that:

a. the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;

b. the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and

c. efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(2) The applicant shall consult with the Historic Landmark Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the Historic Landmark Commission.

(3) The Historic Landmark Commission shall hold a public hearing on the application within 60 days from the date the application is received by the Building Official, Historic Preservation Officer, or his/her designee. Following the hearing, the Commission has 30 days in which to prepare a written recommendation to the Building Official, Historic Preservation Officer, or his/her designee. In the event that the Historic Landmark Commission does not act within ninety (90) days of the receipt of the application, a permit may be granted.

(4) All decisions of the Historic Landmark Commission shall be in writing. A copy shall be sent to the applicant by mail and a copy filed with the City for public inspection. The Historic

Landmark Commission's decision shall state the reasons for granting or denying the hardship application.

(5) Hardships shall not be granted if they are a result of the owner's actions.

(h) Ordinary Maintenance in a Historic Preservation Overlay District

Nothing in this ordinance shall be construed to prevent the ordinary maintenance, in-kind replacement, and repair of any exterior architectural feature of a property within a Historic Preservation Overlay District which does not involve a change in design, material, or outward appearance. When the Building Official, Historic Preservation Officer, or his/her designee determines work has progressed beyond ordinary maintenance, the Commission shall review a request for a Certificate of Appropriateness.

(i) Demolition by Neglect

Owners or persons with an interest in real property included within a Historic Preservation Overlay District shall not permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior feature which would produce a detrimental effect upon the character of the Historic Preservation Overlay District as a whole or the life and character of the property itself. Examples of such deterioration may include, but shall not be limited to:

(1) Deterioration of exterior walls or other vertical supports.

(2) Deterioration of roof or other horizontal members.

(3) Deterioration of exterior chimneys.

(4) Deterioration or crumbling of exterior stucco or mortar.

(5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors.

(6) Deterioration of exterior architectural features.

(7) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(j) Sign Regulations

See Chapter 98.

Sec. 130-25 PD, Planned Development District.

(a) General description and purpose.

The PD, Planned Development District accommodates planned associations of uses developed as integral land use units such as industrial districts, offices, commercial or service centers, shopping centers, residential developments of multifamily or mixed housing including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. A PD District may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this chapter. While greater flexibility is given to allow special conditions or restrictions which would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility.

(b) Permitted uses.

Any use or combination of uses authorized by the Planning and Zoning Commission and the City Council is permitted in a PD District if the use is consistent with the following categories:

(1) *Planned Development-Housing (PD-H).* Any use permitted in the RD-7, RD-5, and MF Districts are permitted in a PD-H development.

(2) *Planned Development-Business (PD-B).* Any use permitted in the C-1, C-2, and C-3 Districts are permitted in a PD-B development, excluding residential uses.

(3) *Planned Development-Industrial (PD-I).* Any use permitted in the I District is permitted in a PD-I development, excluding adult entertainment.

(4) *Planned Development-Mixed Use (PD-M).* Any use permitted in the RD-7, RD-5, MF, C-1, C-2, C-3, and I Districts is permitted in a PD-M development, excluding adult entertainment.

(c) Planned development requirements.

(1) Requests for a PD designation shall be processed as a rezoning request and shall follow the procedures stated in Sec. 130-42 unless otherwise specified in this section. A development plan for the proposed planned development shall be required that shows the location of the planned development and the relationship of the various land uses included in the development. The form and content of the development plan shall be in accordance with the provisions of the Subdivision Ordinance regarding development plans. Development requirements for each separate PD District shall be included as a part of the development plan for each PD District and shall include, but may not be limited to: uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, project phasing or scheduling, management associations, and other requirements as the City Council and the Planning and Zoning Commission may deem appropriate. The preparation of preliminary and final plats for the development shall be prepared in accordance with the provisions of the Subdivision Ordinance and with any modifications approved by the Planning and Zoning Commission on the development plan.

(2) The PD District shall be designated as a zoning district on the zoning map.

(3) The ordinance granting a PD District shall include a statement as to the purpose and intent of the planned development granted therein.

(4) Development criteria.

a. Each proposed development shall be reviewed to determine the compatibility of the development with surrounding land uses. Open space buffers shall be required to separate land uses within the planned development from land uses adjacent to the planned development unless it is determined by the Planning and Zoning Commission that no incompatibility exists between the land uses. No structure, parking lot, equipment pad, or other manmade construction not approved by the City shall be placed in an open space buffer. The size and location of these buffers shall be determined by the Planning and Zoning Commission upon review of the development plan for the proposed development. The minimum size of an open space buffer shall be 25 feet measured from the exterior property line. Landscaping may be required within the buffer based on the location of existing development, the type of development, topography, or other criteria established by the Planning and Zoning Commission.

b. Where structures within the planned development that exceed 35 feet in height are proposed to be erected on lots adjacent to RD-7, RD-5, MU-1, or A-O Districts, such structures shall be located one foot from the boundary of the open space buffer described in Sec. 130-25(c)(4)a for each 2 feet of height over 35 feet.

c. Planned developments designated as PD-B, PD-I, or PD-M shall have frontage along and access to a major arterial street on at least one side of the proposed development. Access through a residential area to a PD-B, PD-I, or PD-M via a local street is prohibited.

d. The Planning and Zoning Commission or the City Council shall not approve a planned development if it finds that the proposed planned development:

e. Does not conform with applicable regulations and standards established by this chapter:

1. Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features, within the standards established by this section;

2. Potentially creates unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot be mitigated by the provisions of this section;

3. Adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area;

4. Fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts;

5. Adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs; or

6. Will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, for reasons specifically articulated by the commission.

(5) Unless otherwise specified in the approved development plan the minimum requirements for each development shall be those stated in the Subdivision Ordinance (Chapter 110) and the requirements of the most restrictive standard zoning district in which designated uses are permitted. There are no maximum height restrictions for planned developments except those noted in Sec. 130-25(c). The maximum housing density permitted in any planned development shall be no more than 50 dwelling units per acre.

(6) The granting of a PD designation shall not relieve the developer from responsibility for complying with all other applicable codes and ordinances of the City unless such relief is specified in the approved development plan.

(7) An owners association will be required if other satisfactory arrangements have not been made for providing, operating, and maintaining common facilities including streets, drives, service and parking areas, common open spaces, and common recreational areas at the time the development plan is submitted. If an owners association is required, the articles of incorporation of an owners association shall be reviewed by the City to assure compliance with the provisions of this chapter.

(d) Zoning district map.

All PD Districts approved in accordance with the provisions of this chapter in its original form, or by subsequent amendments thereto, shall be referenced on the zoning district map, and a list of such PD Districts, together with the category of uses permitted therein, shall be kept on file in the office of the City Secretary or his or her designee.

Sec. 130-26 West Villa Maria, FM 2818, and FM 158 Corridor Overlay Districts.

(a) General purpose and description.

This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

(b) District boundaries.

The corridor overlay standards apply to the future development and use of all land within 200 feet or the depth of the abutting lot, whichever is less, on either side of the street right-of-way along the following specified thoroughfare segments.

(1) West Villa Maria Road from Finfeather Road to SH 47.

(2) FM 2818 (southwest side only) from Villa Maria Road southeastward to the City limits.

(3) FM 158 from 200 feet west of the intersection of Villa Maria Road to the City limits at Cole Lane.

Note: The depth of the corridor is 200 feet or the depth of the abutting lot, whichever is less.

(c) Screening and general appearance standards.

(1) Building materials.

At least 75% of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

(2) Utility equipment.

All heating, ventilation, air-conditioning, and utility equipment located outside of buildings shall be effectively screened from view from any street abutting the property with dense shrubbery having year-round foliage, decorative wall, fence, or architectural element of the building.

(3) Vehicle loading.

Vehicle loading and unloading areas shall be screened from view from any street abutting the property by a fence, wall, or architectural element of the building at least 6 feet in height above the surface of the loading area or dock, as prescribed by the table below.

(4) Solid waste

Solid waste containers that are subject to current screening requirements shall be located such that the enclosure blocks the view of the container from any street abutting the property.

(5) Screening.

A decorative wall or landscaped earth berm at least 3 feet in height, or dense shrubbery having year-round foliage at least 4 feet in height, is required as a visual buffer along street frontages in the following circumstances.

a. Where outdoor parking areas are located within 50 feet of a certain distance from any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(6) Underground utilities.
All electric, telephone, and cable TV wires shall be buried underground from the property line to all structures being served on private or public property.

(7) Screening fences.
All screening fences, whether required or not, that are visible from a street shall be constructed of brick, stone, concrete panels, or a combination of these materials and solid wood (not including plywood or particleboard), with the wood section of fence not exceed 20 feet in length. Chain-link fences and corrugated metal or fiberglass panels are prohibited in all locations.

(8) Perimeter fence materials.
Where fencing is to be located along the boundary of a subdivision abutting the corridor overlay district, the style and materials used for all portions of the fence facing the corridor or any street within the boundaries of the corridor, shall be of uniform construction across all lots so situated in the same subdivision.

Standard	**West Villa Maria, FM 2818, FM 158**
Building materials	At least 75% nonmetallic
Utility equipment	Screened
Vehicle loading	Screened by an architectural element of at least 6 feet in height
Solid waste containers	Screened
Street frontage screening	Screened by a wall or earth berm of at least 3 feet in height, or shrubbery of at least 4 feet in height
Outdoor parking	Screened when located within 50 feet of any street right-of-way
Fuel pumps	Screened
Vehicle drive-up window	Screened
Utility wires	Underground

Sec. 130-27 SH 47, Corridor Overlay District.

(a) General purpose and description.
This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

(b) District boundaries.
The corridor overlay standards apply to the future development and use of all land within 200 feet or the depth of the abutting lot, whichever is less, on either side of the street right-of-way along SH 47 inside the City limits. The depth of the corridor is 500 feet.

(c) Screening and general appearance standards.

(1) Building materials.
100% of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

(2) Utility equipment.
All heating, ventilation, air-conditioning, and utility equipment located outside of buildings shall be effectively screened from view from any street abutting the property with dense shrubbery having year-round foliage, decorative wall, fence, or architectural element of the building.

(3) Vehicle loading.
Vehicle loading and unloading areas shall be screened from view from any street abutting the property by a fence, wall, or architectural element of the building at least 6 feet in height above the surface of the loading area or dock, as prescribed by the table below.

(4) Solid waste.
Solid waste containers that are subject to current screening requirements shall be located such that the enclosure blocks the view of the container from any street abutting the property.

(5) Screening.
A decorative wall or landscaped earth berm at least 3 feet in height, or dense shrubbery having year-round foliage at least 4 feet in height, is required as a visual buffer along street frontages in the following circumstances.

a. Where outdoor parking areas are located within 50 feet of any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(6) Underground utilities.
All electric, telephone, and cable TV wires shall be buried underground from the property line to all structures being served on private or public property.

(7) Screening fences.
All screening fences shall be 100% masonry.

(8) Perimeter fence materials.
Where fencing is to be located along the boundary of a subdivision abutting the corridor overlay district, the style and materials used for all portions of the fence facing the corridor or any street within the boundaries of the corridor, shall be of uniform construction across all lots so situated in the same subdivision.

Standard	**SH 47**
Building materials	100% nonmetallic
Utility equipment	Screened with landscaping or decorative elements
Vehicle loading	Screened with landscaping or decorative elements of at least 6 feet in height
Solid waste containers	Screened with landscaping or decorative elements
Street frontage screening	Screened by a wall or earth berm of at least 3 feet in height, or

Standard	SH 47
	shrubbery of at least 4 feet in height
Outdoor parking	N/A
Fuel pumps	Screened with landscaping or decorative elements
Vehicle drive-up window	Screened with landscaping or decorative elements
Utility wires	Underground
Fencing	Masonry

Sec. 130-28 SC, South College Corridor Overlay District.

(a) General purpose and description.

This overlay district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the City's image as a desirable place to live, work, and shop.

(b) District boundaries.

The corridor overlay standards apply to the future development and use of all land within the South College Corridor. This corridor includes all land within the SC-B, South College - Business and SC-R, South College - Residential Districts found on the official zoning district map. Within 200 feet or the depth of the abutting lot, whichever is less.

(c) Screening and general appearance standards.

(1) Building materials.

100% of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

(2) Utility equipment.

All heating, ventilation, air-conditioning, and utility equipment located outside of buildings shall be effectively screened from view from any street abutting the property with dense shrubbery having year-round foliage, decorative wall, fence, or architectural element of the building.

(3) Vehicle loading.

Vehicle loading and unloading areas shall be screened from view from any street abutting the property by a fence, wall, or architectural element of the building at least 6 feet in height above the surface of the loading area or dock, as prescribed by the table below.

(4) Solid waste.

Solid waste containers that are subject to current screening requirements shall be located such that the enclosure blocks the view of the container from any street abutting the property.

(5) Screening.

A decorative wall or landscaped earth berm at least 3 feet in height, or dense shrubbery having year round foliage at least 4 feet in height, is required as a visual buffer along street frontages in the following circumstances.

a. Where outdoor parking areas are located within 50 feet of any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(6) Underground utilities.
All electric, telephone, and cable TV wires shall be buried underground from the property line to all structures being served on private or public property.

(7) Screening fences.
All screening fences, whether required or not, that are visible from a street shall be constructed of brick, stone, concrete panels, or a combination of these materials and solid wood (not including plywood or particleboard), with the wood section of fence not to exceed 20 feet in length. Chain-link fences and corrugated metal or fiberglass panels are prohibited in all locations.

(8) Perimeter fence materials.
Where fencing is to be located along the boundary of a subdivision abutting the corridor overlay district, the style and materials used for all portions of the fence facing the corridor or any street within the boundaries of the corridor, shall be of uniform construction across all lots so situated in the same subdivision.

Standard	**South College**
Building materials	100%% nonmetallic
Utility equipment	Screened
Vehicle loading	Screened by an architectural element of at least 6 feet in height
Solid waste containers	Screened
Street frontage screening	Screened by a wall or earth berm of at least 3 feet in height, or shrubbery of at least 4 feet in height
Outdoor parking	Screened when visible from street right-of-way
Fuel pumps	Screened
Vehicle drive-up window	Screened
Utility wires	Underground

Sec. 130-29 MU-1, Mixed Use Residential District.

(a) General purpose and description.
The MU-1, Mixed Use Residential District is a special and unique zoning district, which will be appropriate to smaller lots in relatively few areas of the City. The district is intended as an interim zoning classification to aid in transition of certain areas of the City to a permanent zoning district classification in the future. The uses in the MU-1 District are envisioned to be primarily single-family detached dwellings. Due to the age, previous platting, and subdivision patterns, and location of these areas, they contain a variety of residential types and uses. This district allows mobile homes and manufactured homes on individual lots and certain other dwelling types. Most

of the areas zoned for MU-1 already have a high percentage of mixed residential uses. The use of this district is limited predominantly to areas platted and containing a variety of residential uses.

(b) Permitted uses.
All uses permitted in a RD-5 District with the addition of:

- Manufactured Homes on Individual Lots.

(c) Conditional uses.
Any conditional use allowed in a RD-5 District with the addition of:

- Manufactured housing land lease communities.

(d) Lot area, height, and setback requirements.
See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.
See access and off-street parking in Article VI of Chapter 62.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62 before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(3) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(g) Special requirements.

(1) All mobile/manufactured homes shall be placed, tied down, and secured according to the standards set forth by the Chief Building Official.

(2) Mobile homes in licensed mobile home parks shall comply with all applicable requirements of Chapter 74.

(3) All mobile/manufactured homes shall be skirted with suitable weatherized material.

(4) Outdoor storage is prohibited (except for materials for the single-family resident's personal use or consumption, e.g., firewood, gardening materials, etc.).

(5) Residential dwelling permitted in this district shall conform to standards as specified in the RD-5 District.

(6) No temporary structures, such as recreational vehicles, travel trailers, or construction trailer (excluding mobile homes) may be used for on-site dwelling purposes.

(7) Patio homes shall be permitted only on lots specified for such a use in an approved plat (see Sec. 62-167, for criteria). Townhouse and duplex dwellings permitted conditionally are subject to the supplemental regulations of Sec. 62-168 and Sec. 62-169, respectively.

Sec. 130-30 MU-2, Mixed Use District.

(a) General purpose and description.
The MU-2, Mixed Use District is a mixed land use area which was primarily a residential area at one time but has evolved into an area which has numerous nonresidential uses. The district is intended as an interim zoning classification to aid in transition of certain areas of the City to a

permanent zoning district classification in the future. Many of the nonresidential uses which now exist are in structures which were at one time used for residential purposes. It is the intent of this district to allow certain uses which are compatible with existing land uses.

(b) Permitted uses.

- Accessory buildings (See Sec. 130-34(a));
- Bed and breakfast;
- Beer and wine sales;
- Boardinghouse (lodginghouse);
- Child care--Class B;
- Convenience store;
- Community center or recreational center;
- Department store;
- Duplex;
- Essential municipal uses;
- Fraternity and sorority houses;
- General office use (professional, administrative);
- Government (federal or state) owned structures, facilities, and uses;
- Hardware store;
- Home occupations;
- Hospital;
- Landscape service;
- Laundromats (self-service washateria);
- Motorcycle sales;
- Moving company;
- Multifamily dwellings;
- Nursery (greenhouse);
- Paper and chemical suppliers;
- Patio home (zero lot line dwelling);
- Pawnshop that has been licensed to transact business by the state consumer credit commissioner under V.T.C.A., Finance Code ch. 371;
- Personal Care Homes;
- Place of worship;
- Printing company;
- Research labs;
- Roofing and siding company;
- Schools;
- Servant's quarters;
- Single-family detached dwelling;
- Sporting goods;
- Stadium;
- Tool rental;
- Townhouses;
- Trade or business school;
- Welding shop;
- Wholesale distributor.

(c) Conditional uses.

- Amusement arcade (video arcade);

- Auto repair/rental/sales;
- Bank and savings and loan;
- Building materials and hardware;
- Bus terminal/station;
- Cabinet shop;
- Cemetery;
- College or university;
- Country club;
- Feed store;
- Golf course;
- Greenhouse, commercial;
- Hotel or motel;
- Machine shop;
- Medical laboratory;
- Manufactured housing land lease community;
- Municipal services support facilities;
- Police station;
- Produce sales;
- Restaurant;
- Shopping center.

(d) Lot area, height, and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.

See access and off-street parking in Article VI of Chapter 62.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the City Code.

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development in Article III of Chapter 62 before activity on the property may resume. Single-family dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Single-family units constructed in this district shall conform to RD-5 District standards.

(5) Patio home townhouse and duplex dwellings permitted in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169, respectively.

(6) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes, may be used for on-site dwelling purposes.

(2) Outdoor storage and display is prohibited, except for materials for the single-family resident's personal use or consumption, e.g., firewood, gardening materials, etc. or as may be provided for in Sec. 130-34(m).

Sec. 130-31 R-NC Residential-Neighborhood Conservation.

(a) General purpose and description.

The R-NC, Residential-Neighborhood Conservation District, is intended to be composed of detached dwelling units on lots of not less than 5,000 square feet. Dwellings are designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses or rental property. Other uses may be permitted in this district which are compatible to residential uses and occupy structures designed for their intended use and do not infringe upon the residential uses.

(b) Permitted uses.

- Accessory structures;
- Detached dwelling units w/ no more than 2 unrelated people;
- Essential municipal uses;
- Group home/community home;
- Government (federal or state) owned structures, facilities, and uses;
- Home occupations;
- Place of worship;
- Private utilities (no storage yards);
- Real estate sales offices during the development of residential subdivisions, but not to exceed 3 years;
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(c) Conditional uses.

- Accessory dwelling unit;
- Accessory structure if greater than the standards set forth in Sec. 130-34(a);
- Bed and breakfast;
- Boarding (lodging) house;
- Child care--Class B;
- Community center/recreation center;
- Country club or golf course;
- Detached dwelling units w/ no more than 4 unrelated people;
- Duplex;
- Funeral home/mortuary;
- Municipal services support facilities;
- Neighborhood services;
- Nursing home (retirement home);
- Patio home (zero lot line dwelling);
- Police station;
- Professional offices (In the Eastside Historic District, the building must also be used as a primary dwelling by the owner, managing partner or majority shareholder of the business occupying the building);
- Townhouses.

(d) Lot area, height, and setback requirements.

See building setbacks and lot standards in Article IV of Chapter 62.

(e) Parking regulations.

See access and off-street parking in Article VI of Chapter 62.

(f) Other regulations.

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in Sec. 130-35.

(3) Foster children residing in licensed foster care homes shall not be included in the calculation of the number of unrelated individuals living together in a single dwelling unit. Licensed foster care homes shall comply with any state mandated restrictions on the number of children permitted to reside in the dwelling unit.

(4) Any dwelling unit permitted in this zoning district may have a second family comprised entirely of individuals related by blood, marriage or adoption, residing therein on a temporary basis for a period not exceeding 6 months in any calendar year.

(5) Personal Care Homes are prohibited.

(g) Special requirements.

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(2) Outdoor storage is prohibited (except for materials for the resident's personal use or consumption, i.e. firewood, gardening materials, etc.).

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of the nonresidential and multifamily development in Article III of Chapter 62 Bryan City Code, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Patio home townhouse and duplex dwellings permitted conditionally in this district are subject to the supplemental regulations of Sec. 62-167, Sec. 62-168 and Sec. 62-169, respectively.

(5) Professional offices, permitted conditionally in this district shall have one driveway. The minimum dimensions shall be 37 feet long by 18 feet wide so as to accommodate four vehicles on the site.

(6) Professional offices, conditionally permitted in this district shall have a minimum of 8% of the site landscaped.

Article III. "Other Regulations"

Sec. 130-32 Buffer area requirements.

(a) When it is determined that a zoning district abuts a noncompatible zoning district along a mutual side or rear property line or where separated only by an alley, setbacks shall be greater than the minimum requirements set forth in Chapter 62. The purpose of the additional setback is to establish a buffer area to help mitigate noise, lighting, and other possible adverse impacts. No development shall be authorized within the buffer area except for required or permitted landscaping and screening, stormwater detention facilities, and pedestrian walkways. The increased setbacks, which are measured from the property line, shall be required on the property in the higher intensity zoning district, and shall be observed at the time of construction. These buffer requirements are in addition to the screening standards set forth in Sec. 130-37.

(b) The depth of the side and rear buffer setbacks shall be in accordance with the following:

(1) 100 feet in the I, Industrial District and for Municipal Services Support Facilities when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use District and all residential districts.

(2) 75 feet in the C-3, Commercial District and for Essential Municipal Uses when siding or backing on to C-1, Office and all residential districts.

(3) 50 feet in the C-2, Retail District when siding or backing on to all residential districts.

(4) 25 feet in C-1, Office District when siding or backing on to all residential districts.

(5) 25 feet in MF, Multiple-Family District when siding or backing on to all other residential districts.

(6) 25 feet in all nonresidential districts when adjacent to a single-family residence located within an A-O, District and no farther than 100 feet from the nonresidential district boundary.

(c) The depth of the buffer area may be reduced by the equivalent area of landscaping provided within the buffer area. No reductions in the setback area will be allowed where no landscaping is provided parallel to the property lines. In no event shall the reductions eliminate the standard setbacks provided in Chapter 62. Landscaping used in place of screening, allowed in Sec. 130-37, shall not be used to reduce the buffer area. Square feet of coverage shall be based on the standards provided in all other applicable sections and/or ordinances. The request for reducing the buffer shall be submitted with a landscape plan. The minimum depth of the reduced buffer shall be:

(1) 60 feet in the I, Industrial District and Municipal Services Support Facilities when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use, and all residential districts.

(2) 45 feet in the C-3, Commercial District and for Essential Municipal Uses when siding or backing on to C-1, Office and all residential districts.

(3) 30 feet in the C-2, Retail District when siding or backing on to all residential districts.

(4) 15 feet in the C-1, Office District when siding or backing on to all residential districts.

(5) 15 feet in the MF, Multiple-Family District when siding or backing on to all other residential districts.

(d) The depth of the side and rear buffer setbacks, with landscaping, for the Highway 47 Corridor Overlay shall be in accordance with the following:

(1) 60 feet in the I, Industrial District when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use, and all residential districts.

(2) 50 feet in the C-3, Commercial District when siding or backing on to C-1, Office and all residential districts.

(3) 50 feet in the C-2, Retail District when siding or backing on to all residential districts.

(4) 50 feet in the C-1, Office District when siding or backing on to all residential districts.

(5) 50 feet in the MF, Multiple-Family District when siding or backing on to all other residential districts.

(6) 100 feet in the I, Industrial District and/or Municipal Services Support Facilities when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use District and all residential districts.

Sec. 130-33 Conditional use permits.

(a) Purpose.

The purpose of the conditional use permit process is to identify those uses which might be appropriate within a zoning district but, due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them so as to mitigate or eliminate such adverse impacts.

(b) Authority.

The Planning and Zoning Commission may approve a conditional use permit for a use in any district in which such use is authorized under the conditional use list following proper application, and after notice to landowners within 200 feet of the subject property 10 days before the date of the public hearing and in accordance with the procedures and criteria herein established.

(c) Application and site plan required.

No building permit for a use authorized only as a conditional use within a zoning district shall be issued unless the applicant obtains a conditional use permit from the Planning and Zoning Commission. The application for a conditional use permit shall be accompanied by a site plan as required for nonresidential and multifamily development in Article III of Chapter 62. The Planning and Zoning Commission may require additional information or plans as necessary for review.

(d) Review and evaluation criteria.

(1) The Planning and Zoning Commission shall not approve a plan for development of a conditional use if it finds the proposed development:

a. Does not conform with applicable regulations and standards established by this chapter;

b. Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features;

c. Potentially creates greater unfavorable effects or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use;

d. Adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area;

e. Fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts;

f. Adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs;

g. Fails to provide adequate and convenient off-street parking and loading facilities;

h. Fails to conform with the objectives and the purpose of the zoning district in which the development is located;

i. Will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, for reasons specifically articulated by the commission; or

j. The premises or structures are not suitable for the proposed use.

(2) Conditional use site plans considered by the Planning and Zoning Commission shall be approved only after the Planning and Zoning Commission finds that the proposed development, if completed as proposed, will comply with all applicable provisions of this chapter and all conditions deemed necessary by the Planning and Zoning Commission.

(3) The Planning and Zoning Commission may establish such conditions of approval as are necessary to assure that the use meets the criteria set forth in Sec. 130-33(d)(1), which may include without limitation requirements for special yards, lot sizes, open spaces, buffers, fences, walls or screening; requirements for installation and maintenance of landscaping or erosion control measures; requirements for street improvements and dedications, regulation of vehicular ingress and egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; establishment of development schedules or time limits for performance or completion; and such other conditions as the Planning and Zoning Commission may deem necessary to ensure compatibility with surrounding uses and to preserve the public health, safety, and welfare. In imposing such conditions, the Planning and Zoning Commission may act upon variance requests, subject to the same standards governing variances under Sec. 130-41.

(e) Compliance.

(1) In granting a conditional use permit, the Planning and Zoning Commission may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the Chief Building Official for use of the building on such property pursuant to such conditional use permit and such conditions precedent to the granting of the certificate of occupancy. Any special conditions shall be set forth in writing by the Planning and Zoning Commission in conjunction with approval of the conditional use permit.

(2) No conditional use permit shall be granted unless the applicant, owner or grantee of the conditional use permit is willing to accept and agree to be bound by and comply with the written requirements of the conditional use permit, as attached to the site plan drawing (or drawings) and as approved by the Planning and Zoning Commission. A conditional use permit shall remain valid until such time as one of the following actions is taken:

a. The property is rezoned and the site is no longer listed as a conditional use;

b. Another conditional use permit is approved for the site;

c. The use of the premises changes; or

d. Access and construction-related permits necessary for completion of any site development plan have not been issued within 12 months of the Site Development Review Committee's approval (See nonresidential and multifamily development in Article III of Chapter 62).

(3) No building, premises, or land used under a conditional use permit may be substantially changed unless a separate conditional use permit is granted for the change. In the event a change is not considered substantial, the Chair of the Site Development Review Committee may approve the change or forward to the Site Development Review Committee if the change affects the health, safety, or welfare of the public.

(4) Failure to implement and maintain the conditions as specified by the Planning and Zoning Commission in granting a conditional use permit is punishable by the provisions of Sec. 130-45.

(f) Appeal to City Council.

Approval or denial of an application for a conditional use permit, may be appealed to the City Council by the applicant for the permit or any owner of property located within 200 feet of the subject property. Written notice of appeal specifying the grounds for the appeal must be delivered to the Planning and Development Services Department within 10 calendar days after the date of the Planning and Zoning Commission's decision.

(g) Additional regulations for certain uses.

The following additional conditions and procedures shall apply to the uses listed below:

(1) Manufactured housing land lease communities: The proposed use shall comply with the standards set forth in the manufactured housing land lease communities Sec. 130-36.

(2) Historic Preservation Overlay Districts: any conditional use permit concerning property within a Historic Preservation Overlay District shall receive a recommendation to the Planning and Zoning Commission from the Historic Landmark Commission during a public hearing, following the standards of a Certificate of Appropriateness procedure set forth in Sec. 130-24.

130-34 Special and supplementary regulations.

(a) Accessory structures.

(1) In a residential district or on property occupied by a residential use, an accessory structure or use is a subordinate or incidental structure, attached to or detached from the main structure without separate kitchen facilities, not used for commercial purposes and not rented. Accessory uses permitted in residential districts or on property occupied by a residential use include:

a. Storage or work sheds and gazebos;

b. Detached garages;

c. One antenna (amateur radio, CB radio, or TV reception) and/or one satellite dish located in the rear yard only or on the roof (only one satellite dish per residential lot) including any tower or other supporting structure;

d. Private open space or other recreational amenities operated by a homeowners association.

(2) In other districts, an accessory structure is a subordinate structure, the use of which is incidental and is permitted when used only in conjunction with the main structure.

(3) Accessory uses prohibited in public rights-of-way of all zoning districts are as follows:

a. Fences.

b. Basketballs goals including those of which are portable.

c. All other objects with the exception of infrastructure or facilities owned by a utility company, governmental signs or utilities, mailboxes, and projecting signs within the DT-N, DT-S, and DT-C Districts, and in all other zoning districts where attached to a legally nonconforming building, lawfully constructed on the property line immediately adjacent to the public right-of-way, and provided the projecting sign satisfies all of the special use license requirements of Sec. 62-251 of the Land and Site Development Ordinance. For

the use of this chapter, projecting signs shall be defined as the following: A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign. Any accessory use, including projecting signs, within a Texas Department of Transportation (TxDOT) right-of-way must also obtain permission from that authority.

(4) The combined square footage for accessory structures on a single property shall be limited in size providing the following:

a. 725 square feet maximum when placed on a lot less than 7,001 square feet.

b. 1,025 square feet maximum when placed on a lot between 7,001 square feet and one acre.

c. 1,500 square feet maximum when placed on a lot greater than one acre.

d. 1,501 square feet and greater will require a conditional use permit.

(5) Accessory structures must be designed and constructed so that they are in keeping with the general architecture of the main structure, and may not exceed the height of the main structure.

(b) Accessory dwelling units.

(1) Accessory dwelling units may be allowed by conditional use permit as an incidental residential use of a structure on the same lot as the main dwelling unit and used by the same person or persons of the immediate family, or servants employed on the premises, and meet the following standards:

a. Accessory dwelling units must be designed and constructed so that they are in keeping with the general architecture and building material of the main structure.

b. Manufactured homes are not permitted as accessory dwellings.

c. The accessory dwelling unit must be constructed to the rear of the main dwelling, separate from that upon which the main dwelling is constructed.

d. The accessory dwelling unit may be constructed only with the issuance of a building permit.

e. The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be rented or leased and may not be issued utility meters separate from the main structure.

f. The square footage of the accessory dwelling unit cannot exceed 1,000 square feet, nor be less than 400 square feet.

g. A minimum of one additional parking space shall be provided for each accessory dwelling unit located on the premises.

(c) Adult Entertainment.

(1) Adult entertainment definitions.

It is the purpose of this definition of “adult entertainment” and the related definitions contained under the definition of “adult entertainment” to regulate the use of property under the general zoning powers of a home rule City and under applicable Texas statutory law which authorizes home rule cities to divide cities into districts and regulate the use of property within the districts for the purpose of promotion of the health, safety and morals of the public, and for the protection of the general welfare of the community. They have been

made with reasonable consideration, among other things, for the character of the district, and its suitability and compatibility for the particular uses specified; and with a view to conserving the value of buildings and neighborhoods, and encouraging the most appropriate use of land throughout the City. The provisions of this chapter are designed and intended to minimize the negative or adverse secondary effects of adult entertainment uses on the community. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize any activity that may be illegal under other applicable law.

(2) Locational regulations.

It is the intent of the City Council that the locational regulations of this chapter are promulgated pursuant to V.T.C.A., Local Government Code §243.001 et seq., as it applies to nude model studios and sexual encounter centers only. It is the intent of the City Council that all other provisions of this chapter are promulgated pursuant to the City Charter and V.T.C.A., Local Government Code §211 et seq. and other applicable law regarding zoning.

(3) Legislative findings concerning adult uses.

Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the City Council, and including findings incorporated in the cases of Young v. American Mini Theatres, 427 U.S. 50 (1976), City of Renton v. Playtime Theaters, 475 U.S. 41 (1986); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); Barnes v. Glen Theatre, Inc. 501 U.S. 560 (1991); City of Erie v. Pap's A.M., 529 U.S. 277 (2000); H and A Land Properties v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007), including the studies referenced in these cases, such as in H and A Land Properties v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007) which contains and references studies in other communities, the City Council finds that:

a. Legislative Finding Number 1:

The City Council finds that V.T.C.A., Local Government Code §211, et seq., authorized home rule cities to divide cities into districts and regulate the use of property within the districts for the purpose of promotion of the health, safety and morals of the public, and for the protection of the general welfare of the community.

b. Legislative Finding Number 2:

The City Council finds that V.T.C.A., Local Government Code §211, et seq., authorized home rule cities to promulgate and enforce all ordinances necessary to protect health, life and property of the public, and to preserve the good government, order and security of such cities and their inhabitants.

c. Legislative Finding Number 3:

The City Council finds that V.T.C.A., Local Government Code §243, et seq., where the Texas legislature found that the unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity, and provided that does not diminish the authority of a local government to regulate sexually oriented businesses with regard to any matters, recognizes the negative secondary effects of such businesses.

d. Legislative Finding Number 4:
V.T.C.A., Local Government Code, §215.004 authorized home rule cities to enforce all ordinances necessary to protect health, life, and property, and to preserve the good government, order and security of such cities and their inhabitants.

e. Legislative Finding Number 5:
The City Council finds that studies conducted in other cities and states throughout the country have shown a decline in neighborhoods and neighborhood-oriented commercial, religious, and institutional facilities when exposed to sexually oriented or adult entertainment businesses as a negative secondary effect, and the result would not differ in the City of Bryan.

f. Legislative Finding Number 6:
The City Council finds that the Supreme Court of the United States and the Fifth Circuit for the United States Court of Appeals have upheld the validity of such controls that locate these kinds of activities within zoning districts that are less sensitive to their blighting influences and other negative secondary influences.

g. Legislative Finding Number 7:
The City Council finds, based upon the experiences of the cities in Texas and elsewhere in the country, that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature

h. Legislative Finding Number 8:
The City Council further finds, based upon the experiences of the cities in Texas and elsewhere in the country, that police departments of various communities have made a substantial number of arrests for sexually related crimes in adult entertainment establishments.

i. Legislative Finding Number 9:
The City Council finds that "adult entertainment" businesses, due to their very nature, have serious objectionable operational characteristics, thereby contributing to urban blight and downgrading the quality of life in adjacent areas.

j. Legislative Finding Number 10:
The City Council finds that there is convincing documentary and legislative evidence that sexually oriented businesses or "adult entertainment" as to be defined under the Bryan Code, because of their very nature, have deleterious, negative secondary effects on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the consequent downgrading of property values. Numerous studies, reports, and findings concerning the harmful effect of adult entertainment uses on surrounding land uses and neighborhoods have been produce before the Bryan City Council. One such example that has been presented to and considered by the City Council is the opinion of the Fifth Circuit for the United States Court of Appeals in H and A Land Properties v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007), and the 2 studies approved by the Fifth Circuit as being evidence regarding the negative secondary effects of the sale of materials for off-site use, (1) "Adult Entertainment Business in Indianapolis" by Department of Metropolitan Development on Indianapolis (1984) and (2) the "Adult Entertainment Business in City of Oklahoma City", by the Community Development Department of Oklahoma City, in 1986, which have been also presented to and considered by the City Council, as well as various documentary evidence including studies from other cities and other evidence presented to the City Council at the hearings on this ordinance, including studies filed in the lower court in the City of Kennedale case, in Cause Number Civil Action No. 4:05-CV-166-A,

in the Northern District of Texas, Fort Worth Division, including the opinions, reports and affidavits of (i) Connie B. Cooper, FAICP, -Expert Report; (ii) Expert Report of Richard McClearly PhD.; (iii) the summary of the study performed by April Virnig, dated July 3, 2003, for the City of Kennedale, which reference and describe certain studies such as:

1. Those studies noted and approved in H and A Land Properties v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007), including 2 studies for sale of materials for off-site use (1) "Adult Entertainment Business in Indianapolis" by Department of Metropolitan Development on Indianapolis (1984) and (2) The City of Oklahoma City, by the Community Development Department in 1986. The Indianapolis survey, conducted by the City of Indianapolis in conjunction with Indiana University School of Business, Division of Research, polled 20% of the national membership of the American Institute of Real Estate Appraisers. Eighty percent of the respondents predicted that an adult bookstore would negatively impact residential property values, and 72% believed commercial property value would also be negatively impacted. The Oklahoma City study, which surveyed 100 Oklahoma City real estate appraisers, produced similar results: 74% predicted a negative impact on real estate value in the surrounding area.

2. Amarillo, Texas. In 1977, the Amarillo Planning Department prepared a report entitled, "A Report on Entertainment Uses in Amarillo." The report concluded that adult entertainment uses have adverse impacts on surrounding land uses, and that those impacts can be distinguished from those of other businesses. The study found that street crime rates were considerably above the City's average in those areas immediately surrounding the adult-only businesses, and that late at night, during their primary operating hours, those businesses create unique problems of noise, glare, and traffic.

3. Indianapolis, Indiana. In 1984, Indianapolis surveyed real estate experts on the impact that adult entertainment uses had on surrounding property values. A random sample (20%) of the national membership of the American Institute of Real Estate appraisers was used. The opinion survey found that an adult bookstore located in the hypothetical neighborhood described would have a negative impact on residential property values of premises located within one block of the site.

4. "Report of the Attorney General Working Group for the Regulation of Sexually Oriented Business", June, 1989, that references and analyzes a number of studies on communities across the country. For example, in 1987, the planning department of St. Paul, Minnesota completed a study entitled "Effect of Surrounding Area of Adult Entertainment Businesses." The study concluded that:

   (i) There was a statistically significant correlation between neighborhood deterioration as reflected in housing values and crime rates and the location of adult entertainment businesses;

   (ii) The statistical relationship was still significant after taking into account certain marketing factors; and

   (iii) There was a stronger correlation with neighborhood deterioration after establishment of an adult entertainment business than before.

5. Austin, Texas. In May, 1986, the Austin Planning Department published a report on adult businesses in Austin. An analysis of crime rates in Austin was conducted by

comparing areas with adult businesses to areas without adult businesses. Four study areas were chosen that did not contain adult businesses. Two study areas were chosen containing only one adult business each, and 2 study areas were chosen containing 2 adult businesses each. Within those study areas containing adult businesses, sex crimes were found to be from 2 to nearly 5 times the City-wide average. Also, sex-related crime rates were found to be 66% higher in study areas containing 2 adult businesses as compared to study areas containing only one adult business. Austin also conducted a survey of 120 real estate appraisers and lending institutions. Eighty-eight percent of those responding indicated a belief that an adult bookstore would decrease residential property values within one block, and 59% felt that residential property values would decrease within 3 blocks. A survey of 3 adult businesses in Austin revealed that only 3 customers had addresses within one mile of an adult business and 44% of all customers visiting the 3 adult businesses had addresses outside the City of Austin.

k. Legislative Finding Number 11:

The City Council is relying on the findings and studies listed above and is attempting to benefit the public welfare by proposing, examining and adopting zoning rules, definitions and provisions related to adult entertainment.

1. It is the express intent of the City Council to ensure that the adverse effects created by "adult entertainment" are minimized and controlled so as not to cause or contribute to crime, increased blighting, or downgrading of adjacent property and the surrounding neighborhood.

2. The regulations established herein are intended to protect and preserve the quality, property values, integrity and character of the City's neighborhoods and commercial districts, deter the spread of urban blights, and protect the citizens of the City from the objectionable effects of sexually oriented businesses.

l. Legislative Finding Number 12:

The City Council finds, from the studies that have been presented, that, because of their very nature, adult entertainment uses can and should be relegated to nonresidential and non-retail zoning districts.

m. Legislative Finding Number 13:

1. The City Council finds, based on the purposes and legislative findings set out in this ordinance and from the studies noted in Legislative Finding Number 5, that adult entertainment uses should be an allowed use in the I, Industrial District (Sec. 130-23). The City Council finds that there will be adequate locations for "adult entertainment" within the City in the area zoned Industrial for those uses already permitted in that district, and will not unreasonably limit alternative avenues of communication, while minimizing the adverse secondary effects of adult entertainment and providing the other purposes noted herein. There will be a sufficient number of sites provided by placing dispersed sites for "adult entertainment" in the Industrial District. The Industrial District composes approximately 33% of the area in the City of Bryan that is not zoned for residential types or agricultural types of uses. The areas inside those designated as Industrial District, are already served by Bryan infrastructure with respect to utilities, streets and other services, or such infrastructure is readily available.

2. Further, the City Council finds, based on the purposes and legislative findings set out in Sec. 130-23 and from the studies noted in Legislative Finding Number 5, that there will be a sufficient number of sites provided by requiring dispersed sites for "adult entertainment" under Sec. 130-23(g)(3), so as to allow for sufficient dispersal of such sites to prevent concentrations, thereby minimizing the adverse secondary effects, while not unreasonably limiting alternative avenues of communication, and providing the other purposes noted herein.

(d) Special height limitations.

The height limitations specified by this chapter and in building setbacks and lot standards (Article IV of Chapter 62) do not apply to cooling towers, chimneys, vent stacks, water stand pipes and tanks, steeples, spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(e) Modular buildings.

Modular buildings are allowed in any zoning district providing the following requirements are met:

(1) The building meets or exceeds all building code requirements that apply to other buildings concerning on-site construction.

(2) The building conforms to all applicable zoning standards for the respective zoning district.

(3) The building is affixed to a permanent concrete slab or grade beam foundation.

(4) The building is skirted with matching weatherized material if any space is exposed between the structure and the slab or ground.

(5) The Chief Building Official is so notified in writing for the purpose of establishing procedures for the inspection, issuing of building permits and the compliance with the Texas Industrialized Housing and Buildings Act (V.T.C.A., Occupations Code ch. 1202).

(f) Visibility at intersections in all districts.

In any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner to impair a vehicle driver's vision at intersections (streets, alleys, and driveways), within a triangle defined by the requirements of the American Association of State Highway and Transportation Officials.

(g) Patio home requirements.

See Land and Site Development Ordinance Sec. 62-167.

(h) Townhouse requirements.

See Land and Site Development Ordinance Sec. 62-168.

(i) Duplex requirements.

See Land and Site Development Ordinance Sec. 62-169.

Duplex units shall conform to the requirements for single-family residential development as specified in each district unless otherwise specified in Chapter 62.

(j) Neighborhood services.

(1) It is the intent of this chapter to preserve existing establishments that serve a small neighborhood area and to protect the surrounding residential land use from the adverse impacts of a nonresidential land use. Neighborhood service establishments requesting a conditional use permit shall provide a site plan in accordance with the full site review

provisions of the nonresidential and multifamily development in Article III of Chapter 62. Neighborhood services shall be limited to the following uses:

a. Grocery store;

b. Laundromat (self-service laundry, washateria);

c. Dry-cleaning drop-off (no onsite dry-cleaning);

d. Beauty shop or barbershop; or

e. Automated teller machine.

(2) Neighborhood services may be connected to or separate from a residential use located on the same lot or parcel. Such establishments shall:

a. Be limited in gross floor area to 5,000 square feet (business only);

b. Not include fuel sales or other fuel dispensing or storage operations;

c. Have no liquor sales; and

d. Be permitted beer and wine sales for off-premises consumption only.

(k) Construction standards.

(1) Buildings with metal exteriors are prohibited within all residential districts, with the exception of accessory structures, federal or state government owned structures, facilities and uses; manufactured housing when permitted; and temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(2) All buildings within the C-1, Office and C-2, Retail Districts must have at least 50% of facades covered by masonry/brick construction or vinyl/wood siding or other nonmetallic material. Exceptions include federal or state government owned structures, facilities and uses; and temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(3) Structures, with foundations constructed after the February 12, 1990 (effective date of Zoning Ordinance), that allow areas for crawl space are required to have skirting or permanent enclosures. Skirting when installed shall be of material suitable for exterior exposure and contact with the ground. Permanent perimeter enclosures shall be constructed of materials as required by the City building code for regular foundation construction. Skirting will be constructed of fire resistant material. Skirting shall be installed in accordance with the skirting manufacturer's installation instructions. Skirting shall be adequately secured to assure stability, to minimize vibration and susceptibility to wind damage and to compensate for possible frost heave. Skirting shall follow all FEMA regulations regarding materials and construction in special flood hazard areas.

(l) Group Home and Personal Care Home requirements.

(1) Personal Care Homes are required to contact the local office of Area Agency on Aging (or successor agency) and provide their contact information.

(2) Ten business days prior to opening, Group Homes and Personal Care Homes must register with the City. Proof of notification to the Area Agency on Aging (or successor agency) is required for registration of Personal Care Homes. There is no fee associated with the registration.

(3) Additional requirements for Group Homes and Personal Care Homes located in residential districts:

a. Residents of Group Homes and Personal Care Homes may not keep for the use of the residents of the home, either on the premises of the home or on the public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.

b. Group Homes and Personal Care Homes are allowed one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building.

(m) Outdoor display and storage requirements.

(1) Purpose.
To encourage the most appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of outdoor display and storage to be permitted in the various zoning districts in accordance with the following standards.

(2) Sidewalk display shall meet the following standards:

a. Sidewalk display shall be permitted adjacent to a principal building wall and extending a distance no greater than 5 feet from the wall.

b. Sidewalk display shall not block entrances, exits or required travel paths, and shall not impair emergency services access to any buildings.

c. Sidewalk display shall comply with all applicable standards established by the Americans with Disabilities Act and shall not obstruct the use of any crosswalk or wheelchair ramp.

d. Sidewalk display shall not be permitted to block any public pedestrian right of way.

e. Sidewalk display shall occur only during the business hours of the applicable business establishment.

(3) Outdoor display shall meet the following standards:

a. May include packaged merchandise, motor vehicles, RV's, trailers, farm equipment, construction equipment, accessory buildings for sale, rent or lease and other large items typically found on display outside in a retail environment.

b. Sample merchandise on display outdoors only during the business hours of the applicable business establishment need not be packaged.

c. Materials in bulk shall not be permitted in outdoor display.

d. Display of items that would normally be utilized outside, is not limited to sample items.

e. Except for items that would normally be stored and utilized outside, outdoor display shall be allowed only during the business hours of the applicable business establishment.

f. Outdoor display areas shall be located only on an improved surface.

g. Items stacked for outdoor display shall have an aggregate height no greater than 12 feet.

h. With the exception of motor vehicles, outdoor display shall not be located within minimum required building setback areas.

i. Outdoor display may be located in defined off-street parking areas to the extent that remaining available on-site parking is not reduced below the minimum amount required for the site by City development standards.

j. Outdoor display shall not be located in minimum required landscaped areas.

k. Outdoor display shall not block entrances, exits or required travel paths, and shall not impair emergency services access to any buildings.

l. Outdoor display shall comply with all applicable standards established by the Americans with Disabilities Act and shall not obstruct vehicular traffic, off-street parking, or the use of any crosswalk or wheelchair ramp.

m. Outdoor Display shall not be located in any public right-of-way, including sidewalks and alleys.

n. When located in defined off-street parking areas, outdoor display areas shall be separated from active drive aisles and parking areas by a physical barrier providing clear delineation of such storage area to shoppers and motorists.

(4) Limited outdoor storage shall require approval of a site plan by the City's Site Development Review Committee (SDRC) in accordance with requirements for site plan approval for nonresidential and multifamily developments of Chapter 62. The site plan must show dimensions and location of the proposed limited outdoor storage area. Limited outdoor storage shall meet all the following standards:

a. Limited outdoor storage shall not be more than 12 feet in height and shall be completely screened from view from any public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen.

b. In lieu of screening required by Sec. 130-34(m)(4)a, limited outdoor storage may be allowed without screening, if located a minimum of 150 feet from an adjacent street right-of-way.

c. Limited outdoor storage shall be located at least 15 feet from any public right-of-way and/or any abutting residential use.

d. Limited outdoor storage shall be located behind the primary front façade of the principle building on a site.

e. Limited outdoor storage may be located to the side of a building so long as it is not located within a minimum required side building setback area.

(5) General outdoor storage shall require approval of a site plan by the City's Site Development Review Committee (SDRC) in accordance with requirements for site plan approval for nonresidential and multifamily developments of Chapter 62. The site plan must show dimensions and location of the proposed limited outdoor storage area. General outdoor storage shall meet all the following standards.

a. General outdoor storage shall not be more than 12 feet in height and shall be completely screened from view from any public right-of-way, public parking areas, or adjacent residential development by a 100% opaque visual barrier or screen. Complete screening shall mean that no portion of the material stored is visible from outside the screening device.

b. General outdoor storage shall be located behind the primary front façade of the principle building on a site.

c. General outdoor storage shall be located at least 150 feet from the front property line and not closer than 150 feet from an existing residential use on an abutting property.

d. General outdoor storage shall not be located in minimum required side building setback areas and must be located at least 15 feet from any side property line.

(6) Industrial outdoor storage shall meet the following standards.

a. All material shall be screened when closer than 150 feet from a public right of way.

b. Uniform metal panel and/or chain-link with slat material shall be permitted as screening in the Industrial District.

(7) Outdoor display or storage shall be permitted in zoning districts as shown below:

	A-O	**RD-7**	**RD-5**	**RN-C**	**MU-1**	**MU-2**	**MF**	**C-1**	**C-2**	**C-3**	**DT-N**	**DT-S**	**DT-C**	**SC-B**	**SC-R**	**I**
Sidewalk Display	✓	x	x	x	x	✓	x	x	✓	✓	✓	✓	✓	✓	x	x
Outdoor Display	✓	x	x	x	x	✓	x	s	s	✓	x	x	x	s	x	x
Limited Outdoor Storage	s	x	x	x	x	x	x	x	x	s	x	x	x	x	x	x
General Outdoor Storage	s	x	x	x	x	x	x	x	x	s	x	x	x	x	x	x
Industrial Outdoor Storage	s	x	x	x	x	x	x	x	x	x	x	x	x	x	x	✓

x = not permitted
✓ = permitted by right
s = permitted upon approval by the Site Development Review Committee

(n) Tattoo Studio Requirements.

(1) All structures housing a tattoo studio use shall be located at least 5,280 feet from another structure housing a tattoo studio use.

(2) All structures housing a tattoo studio use shall have a minimum of 3,000 square feet of floor area and a maximum of 5,000 square feet of floor area.

(3) Consumption of alcoholic beverages shall be prohibited in the tattoo studio (in accordance with 25 Texas Administrative Code, Chapter 229, Subchapter V, "Minimum Standards for Licensure of Tattoo and Certain Body Piercing Studios", Rule 229.404(h) as may be amended from time to time).

(o) Credit Access Business.

(1) A structure containing a credit access business shall be located at least 1,000 feet from another structure containing another credit access business, as measured in a straight line between the nearest points of one structure to the other structure.

(2) A lot containing a credit access business shall be located at least 200 feet from any lot zoned or used for residential purposes, as measured in a straight line between the nearest points of one lot to the residential lot.

(3) A lot containing a credit access business shall not be located on property fronting a street classified as a Major Arterial or greater, as designated by the Bryan Thoroughfare Plan.

(4) No credit access business shall be permitted on a lot wholly or partially located within the West Villa Maria Corridor Overlay District, the FM 2818 Corridor Overlay District, the FM 158 Corridor Overlay District, or the SH 47 Corridor Overlay District.

(5) A credit access business shall be situated only within a freestanding structure and shall not be collocated in the same structure as other uses.

Sec. 130-35 Wireless telecommunication facilities.

(a) Definitions.

In interpreting and administering the wireless telecommunication facility regulations of this Zoning Ordinance and the Land and Site Development Ordinance (Chapter 62), the following words, terms and phrases, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alteration shall mean any modification, replacement, or reconstruction that materially increases the height or any other dimension of a WTF.

Antenna shall mean any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency signals:

Omni-directional antenna (also known as a "whip" antenna) transmits and receives radio frequency signals in a 360 degree radial pattern.

Directional antenna (also known as a "panel" antenna) transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.

Parabolic antenna (also known as a "dish" antenna or satellite dish) is a bowl-shaped device for the reception and/or transmission of radio frequency signals in a specific directional pattern.

Attached wireless telecommunication facility shall mean a wireless telecommunication facility that is affixed to an existing structure that is not primarily used for the support or attachment of a wireless telecommunication facility and is not a normal component of such a facility.

Collocation shall mean when more than one wireless telecommunications provider shares a wireless telecommunications support structure.

Compound shall mean the fenced WTF area which may be a portion of a parcel or site, or the entire parcel or site.

Direct-to-home services shall mean the distribution or broadcasting or programming or services by satellite directly to the subscriber's premises without use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite; examples are direct broadcast satellites (DBS), multichannel multipoint distribution system (MMDS), and television broadcast stations (TVBS).

Existing support structure shall mean any structure existing prior to the adoption of the ordinance from which this section is derived that currently supports or can support a wireless telecommunication facility.

FAA shall mean Federal Aviation Administration.

FCC shall mean Federal Communications Commission.

Height shall mean the distance measured from ground level at the base of a wireless telecommunication facility to the highest point on the facility including any antenna or related equipment.

Historic resource shall mean any district, structure or site designated as historically significant by any lawfully authorized local, state or federal historic preservation entity or governmental entity, including the City.

Intermediate facility see Sec. 130-35(b)(1)b.

Major facility see Sec. 130-35(b)(1)c.

Minor facility see Sec. 130-35(b)(1)a.

Related equipment shall mean all equipment or structures ancillary to the transmission and reception of voice and data via radio frequencies; such equipment or structures may include, but are not limited to, cable, conduit and connectors, cabinets, and fencing.

Service provider shall mean any company, corporation, alliance, individual or other legal entity that provides a wireless telecommunication service directly to the public for a fee or to such classes of users as to be effectively available directly to the public regardless of the facilities used; services include, but are not limited to portable phones, car phones, pagers, digital data transmission, or radio or television communications.

Stealth technology or *stealth facility* shall mean design technology that blends the WTF into the surrounding environment, so it is unrecognizable as a telecommunications facility; examples of stealth facilities include but are not limited to architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements such as church spires or window wall, and antenna structures designed to resemble light poles or flagpoles.

Support structure shall mean any structure that supports a wireless telecommunication facility; support structure types include, but are not limited to, any existing or newly constructed structure such as buildings, water towers, light poles, stanchions, monopoles, lattice towers, wood poles or guyed towers.

Transmission tower shall mean a wireless telecommunications support structure designed primarily for the support and attachment of a wireless telecommunications facility. Transmission towers include:

> *Monopole tower.* A self-supporting structure composed of a single spire used to support telecommunications antenna and/or related equipment.
>
> *Lattice tower.* A self-supporting 3- or 4-sided, open, steel frame structure used to support telecommunications antenna and/or related equipment.
>
> *Guyed tower.* An open, steel frame that requires wires and anchor bolts for support.
>
> *Wireless telecommunications facility (WTF)* shall mean an unstaffed facility operating for the transmission and reception of low-power radio signals consisting of an equipment shelter or cabinet, a support structure, antennas (e.g., omni-directional, panel/directional, or parabolic) and related equipment.

(b) Zoning for WTFs.

(1) WTF use categories.

Wireless telecommunication facilities are allowed and encouraged to locate in the City. In order to expedite the siting process for WTFs and to accommodate the various regulations for handling these facilities according to the FCC, the Planning and Development Services Department has determined 3 general use categories for WTFs. The use categories are minor facility, intermediate facility, and major facility as follows:

a. Minor facility.

1. A new transmission tower 35 feet (or 10.5 meters) or less in height;
2. Parabolic antenna one meter or less;
3. Parabolic antenna over one meter and less than or equal to 2 meters;
4. Omni-directional antenna (whip antenna) 6 inches in diameter or less and not extending over 12 inches above support structure;
5. Directional antenna one meter or less measured across the longest dimension and not extending over 12 inches above support structure;
6. Direct-to-home service antenna and citizen's radio band antenna;
7. Stealth facility 35 feet (or 10.5 meters) or less in height.

b. Intermediate facility.

1. A new transmission tower greater than 35 feet (10.5 meters) and less than or equal to 110 feet (33 meters) in height;
2. Parabolic antenna over 2 meters;
3. Omni-directional antenna (whip antenna) greater than 6 inches in diameter and/or extending 12 inches above the support structure;
4. Directional antenna over one meter measured across the longest dimension and extending over 12 inches above support structure;
5. Stealth facility greater than 35 feet (10.5 meters) and less than or equal to 110 feet (33 meters) in height.

c. Major facility.

1. A new transmission tower greater than 110 feet (33 meters) in height;
2. Stealth facility greater than 110 feet (33 meters) in height.

(2) Wireless Telecommunications Facilities Siting Matrix

Wireless telecommunication facilities are allowed, as indicated in the following table:

P = Permitted as of right *C = Conditional use permit required* *– = Prohibited*	A-O	RD-5 RD-7	MF	C-1 C-2 C-3	I	MU-1 MU-2	CO	HP/D	HP/E
Minor Facility									
a. New transmission tower ≤ 35 feet (10.5 meters) in height	**C**	**C**	**P**	**P**	**P**	**C**	**C**	**C**	**–**
b. Parabolic antenna 1 meter or less	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
c. Parabolic antenna over 1 meter and under 2 meters	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**–**
d. Omni-directional antenna (whip antenna) 6” in diameter or less and not extending 12’ above support structure	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
e. Directional antenna 1 meter or less measured across the longest dimension	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
f. Direct-to-home service antenna and citizen’s band radio	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
g. Stealth facility ≤ 35 feet (10.5 meters) in height	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Intermediate Facility									
a. New transmission tower > 35 feet (10.5 meters) and ≤ 110 feet (33 meters) in height	**C**	**C**	**C**	**C**	**P**	**C**	**C**	**C**	**–**
b. Parabolic antenna over 2 meters	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**–**
c. Omni-directional antenna (whip antenna) greater than 6” in diameter and/or extending 12’ above support structure	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**–**
d. Directional antenna over 1 meter measured across the longest dimension	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**–**
e. Stealth facility > 35 feet (10.5 meters) and ≤ 110 feet (33 meters) in height	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**	**P**
Major Facility									
a. New transmission tower > 110 feet (33 meters) and ≤ 200 feet in height	**C**	**C**	**C**	**C**	**P**	**C**	**C**	**C**	**–**
b. Stealth facility > 110 feet (33 meters) and ≤ 200 feet	**C**	**C**	**C**	**C**	**P**	**C**	**C**	**C**	**C**

P = Permitted as of right *C = Conditional use permit required* *– = Prohibited*	**A-O**	**RD-5** **RD-7**	**MF**	**C-1** **C-2** **C-3**	**I**	**MU-1** **MU-2**	**CO**	**HP/D**	**HP/E**
in height									

CO = Villa Maria Corridor; HP/D = Downtown Historic District; and HP/E = Eastside Historic District

(3) Height and Site Development Regulations
See Article IX of Chapter 62 for additional regulations that apply to wireless telecommunications facilities.

(c) Conditional use permits.
Some minor transmission towers and all intermediate and major transmission towers require a conditional use permit (CUP) from the Planning and Zoning Commission. The Planning and Zoning Commission may place additional conditions on the site where it deems necessary to do so to protect the health, safety and general welfare of the public. The criteria in Sec. 130-33 will govern the issuance of conditional use permits for WTFs. In addition to the standard criteria the following additional factors shall be considered when determining whether to grant a conditional use permit for WTFs:

(1) Height of the proposed tower, surrounding topography and surrounding tree coverage and foliage as they relate to:

a. Skyline impact, examining whether the proportions of the structure appear to "loom" over or blend in with the surrounding environment; and

b. Shadow impact, whether or not the proposed tower will cast shadows that would prevent the reasonable use or enjoyment of surrounding properties.

(2) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

(3) Proximity of the tower to residential structures and residential district/boundaries.

(4) Economic impact on adjacent and nearby properties.

(5) Proposed ingress and egress.

(6) Availability of suitable alternative, existing support structures.

Sec. 130-36 Manufactured housing land lease communities.

(a) Permits for new manufactured housing land lease communities.
Manufactured housing land lease communities created on or after January 1, 2000, shall be required to be licensed in accordance with the standards in this chapter. It shall be unlawful for any person to connect utilities to or to occupy a manufactured home in a new manufactured home in a new manufactured housing land lease community within the City limits unless the community is duly licensed under the terms of this chapter. Licenses shall be issued and renewed annually by the City building services department. Application for a license shall be made in writing, signed by the applicant, and accompanied by an affidavit of the applicant as to the truth of the application. Applications shall include the name and address of the applicant, the location

and legal description of the community, and a master plan of the community. Additionally, a deposit fee, based on the proposed number of lease lots within the community, will be required at time of application. The Chief Building Official or his or her agent shall renew licenses annually following a satisfactory inspection of the property for compliance with this chapter. Whenever, upon inspection of the property, the Chief Building Official finds conditions or practices which are in violation of this chapter, written notice shall be given to the license holder. The notification shall state that such conditions or practices must be corrected within a specified period of time, based on the nature and severity of the violation. At the end of the specified time, the Chief Building Official shall re-inspect the property for compliance. Failure to correct the conditions or practices within the specified time shall result in a suspension of the license. The license holder will be issued written notice of the suspension. Upon receipt of the notice of suspension, such person shall cease operation of the manufactured housing land lease community. A manufactured housing land lease community, which does not conform to the regulations of the zoning district in which it is located, shall be deemed a nonconforming use and subject to Sec. 130-40. A lapse of a current license shall be considered as an abandonment of the nonconforming status.

(b) Inspections of manufactured housing land lease communities.

The Chief Building Official or his or her agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this chapter. The Chief Building Official or his or her agent shall have the authority to enter upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter. It shall be the duty of the land lease community management to give access to the inspector to all lots during normal business hours.

(c) Zoning for manufactured housing land lease communities.

New development of a manufactured housing land lease community shall require a conditional use permit (CUP) from the Planning and Zoning Commission. The Planning and Zoning Commission may place additional conditions on the site where it deems necessary to do so to protect the health, safety and general welfare of the public and where such conditions will promote and uphold the City comprehensive plan. The Planning and Zoning Commission may also take into consideration the proposed location of the manufactured housing land lease community in relation to present and anticipated future land use. The regulations of Sec. 130-33 govern the issuance of conditional use permits in the following zoning districts:

(1) A-O, Agricultural-Open District;

(2) MF, Multiple-Family District; and

(3) MU-1, Mixed-Use Residential District.

(d) Development standards for manufactured housing land lease communities.

(1) Housing type standards.

To ensure the protection of the health, safety, and general welfare of the public, only HUD-Code manufactured homes, as defined by this chapter, shall be permitted to locate within manufactured housing land lease communities. Mobile homes and recreational vehicles, as defined by this chapter, shall not be permitted within a manufactured housing land lease community.

(2) Skirting requirements.

To ensure the protection of the health, safety, and general welfare of the public, all manufactured homes shall have skirting permanently installed and extending to the ground.

Skirting material to be a durable, exterior material consistent with the exterior cladding of the home. All tow bars, wheels and axles shall be removed when the manufactured home is installed.

(3) Foundation requirements.
To ensure the protection of the health, safety, and general welfare of the public, all manufactured homes within manufactured housing land lease communities shall be installed on a "properly engineered foundation system" which meets the manufacturer's installation requirements and the Texas Manufactured Housing Standards Act (V.T.C.A., Occupations Code ch. 1201).

(4) Maximum density standards.
To provide adequate privacy and to ensure the protection of the health, safety, and general welfare of the public, the density of any manufactured housing land lease community shall be no greater than 8 units per acre.

(5) Front setback requirements.
A setback area facing and abutting a street and/or sidewalk and extending across the front of a lot between the side lot lines and having a minimum horizontal depth of 10 feet. The setback shall be measured from the inside edge of the adjacent pavement, to the face of the manufactured home.

(6) Rear setback requirements.
A setback area located on a lot extending across the rear of the lot between the side lot lines and having a minimum horizontal depth of 10 feet. The setback is measured from the rear lot line to the face of the manufactured home.

(7) Building separation requirements.
To provide adequate privacy and to ensure the protection of the health, safety, and general welfare of the public, separation between manufactured homes shall be a minimum of 20 feet. Separation between manufactured homes shall be measured from the face of each structure. Separation between manufactured homes and accessory structures or between accessory structures (i.e., storage buildings, detached carports or garages) shall be a minimum of 10 feet, and shall be measured from the structure's eaves.

(8) Parkland requirements.
All residential subdivisions in the City limits of the city shall be required to provide for the parkland needs of future residents in accordance with Sec. 110-60 of the Subdivision Ordinance.

(9) Common open area requirements.
To provide adequate recreational area for the residents of a manufactured housing land lease community, the following standards shall apply:

a. For communities with fewer than 20 lease lots, no minimum open recreational area will be required.

b. For communities with greater than 20 lease lots, a minimum of 250 square feet per lease lot will be required to be dedicated, improved and maintained for the recreational use of the residents of the community. The area dedicated for common open areas shall not include the yard space of individual lease lots, street rights-of-way, required buffer areas or parking areas. The common open areas required shall be disbursed throughout the community to provide safe and easy access to all residents. No common open area shall be further than 500 feet from any dwelling unit within the community.

(10) Screening requirements.

To conserve and protect the privacy and value of adjacent properties, a screening fence is required for all manufactured housing land lease communities. Screening fences must comply with the regulations of Sec. 130-37.

(11) Buffer area requirements.

To conserve and protect the privacy and value of adjacent properties, buffer areas shall be required for all manufactured housing land lease communities. The regulations of Sec. 130-32 govern the depth of side and rear buffer setbacks. In addition, a minimum 50-foot landscaped buffer area shall be provided along main entrances to the community from public rights-of-way. These buffer areas shall be landscaped in accordance with all other applicable sections and/or ordinances.

(12) Landscaping requirements.

Landscaping requirements for entry areas, common recreational areas, and buffer areas shall be the same as required for commercial developments in the City. The criteria set forth in all other applicable sections and/or ordinances will govern the standards for landscaping. In addition to these requirements, the land lease community shall be required to provide and maintain a minimum of one canopy tree (at minimum 2-inch caliper size), either existing or new, for each individual lease lot.

(13) Public street requirements.

Public streets within manufactured housing land lease communities shall be designed and constructed in accordance with the Subdivision Ordinance (Chapter 110).

(14) Private street requirements.

Private streets within a manufactured housing land lease community shall have a minimum width of 20 feet, and constructed of concrete or asphalt. Design of private streets shall be reviewed and approved by engineering services. Block length between intersections of through streets shall not exceed 1,200 feet. Private streets shall be named and numbered in accordance with City addressing standards for emergency vehicle access.

(15) Public walkway requirements.

Public walkways shall be installed by the developer to provide access from each lease lot to all public amenities within the manufactured housing land lease communities, including but not limited to, visitor parking, community buildings, common open areas, etc. Public walkways shall be constructed of all-weather materials, and meet all applicable handicap accessibility guidelines. Public walkways must be physically separated from streets.

(16) Parking requirements.

The following standards apply to parking required for individual lease lots as well as separate spaces designated for visitor parking. No on-street parking shall be allowed within manufactured housing land lease communities.

a. Residential parking.

To provide adequate residential parking, each lease lot shall accommodate the following:

1. Single wide lots.

A minimum of 2 vehicles on a paved surface by providing one of the following options:

(i) A 2 car carport or garage;

(ii) A driveway measuring 12 feet wide by 37 feet deep; or

(iii) A driveway measuring 18 feet wide by 18 feet, 6 inches deep. Driveway dimensions shall be measured from the interior edge of paving or sidewalk.

2. Double wide lots.

A minimum of 3 vehicles on a paved surface by providing one of the following options:

(i) A 3 car carport or garage,

(ii) A driveway measuring 12 feet wide by 55 feet, 6 inches deep, or

(iii) A driveway measuring 27 feet wide by 18 feet, 6 inches deep. Driveway dimensions shall be measured from the interior edge of paving or sidewalk.

b. Visitor parking requirements.

To provide adequate visitor parking, a minimum of one parking space per four 4 lease lots shall be provided in common parking areas. The parking and circulation regulations of Sec. 63-28 govern the design and standards for common parking areas.

(17) Storage requirements.

To provide adequate and safe storage of personal items, a storage building providing a minimum of 80 square feet of storage shall be provided on each lease lot. Storage buildings shall be of uniform and consistent design among all lease lots, and are to be placed on the lot in such a manner to assure adequate separation between structures. No storage is to be permitted underneath the manufactured home.

(18) Floodplain requirements.

To provide adequate protection against flooding, all manufactured land lease communities shall be in compliance with Chapter 46.

(19) Fire protection.

The manufactured housing land lease communities shall be subject to the rules and ordinances of the City fire prevention authority and codes.

(20) Water supply.

Individual water riser pipes shall be so located on each lease lot so that the water connection to the manufactured home will approximate a vertical position. Water connections shall include a cut-off valve before the line enters the home.

(21) Sanitary sewer requirements.

All sewer lines shall be located in trenches of sufficient depth to be free of breakage and be separated from the water supply system by a safe distance in accordance with the City plumbing code. Sewers shall be at a grade that will ensure a velocity of 2 feet per second when flowing full. All sewer lines shall be constructed of materials in accordance with the City plumbing code, have watertight joints, and shall be adequately vented. Each manufactured home shall be provided with at least a four-inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each lease lot so that the sewer connection to the manufactured home drain outlet will approximate a vertical position. The sewer connection shall have a nominal inside diameter of at least 3 inches, and the slope of any portion thereof shall be at least one-quarter inch per foot. The sewer connections shall consist of one pipeline only without any branch fittings. All materials used for sewer connections shall be semi-rigid, corrosive resistant, nonabsorbent and durable. Provisions shall be made for plugging the sewer riser pipe when a manufactured home does not occupy the lease lot.

Surface drainage shall be diverted away from riser. The rim of the riser pipe shall extend at least 2 inches above the ground elevation.

(22) Electrical requirements.

The power supply to a manufactured housing land lease community shall be installed and maintained in accordance with the City electrical code and BTU service entrance requirements. All manufactured housing land lease communities and every manufactured home within shall contain an electrical wiring system consisting of wiring, fixtures, equipment, and appurtenances which shall be installed and maintained in accordance with the current edition of the national electrical code governing such systems. The City electrical inspector shall make inspection of the service connections to the manufactured home.

Sec. 130-37 Screening fence standards.

(a) Purpose.

To encourage the most appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this section in accordance with the following standards. Screening regulations are required only when a full site plan review is required (see nonresidential and multifamily development in Article III of Chapter 62).

(b) Location of required screening.

(1) When it is determined that a zoning district sides or backs upon a noncompatible zoning district, a solid screening wall or fence shall be erected along the property line, and within the property with the higher intensity zoning district. The screening requirements shall be observed at the time of rezoning and/or construction, or upon a change in use of the property where the screening shall be imposed. The purpose for the screening is to provide a visual barrier between the properties. The owner of such property shall be responsible for and shall build the required wall or fence. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence. Screening standards shall be in accordance with the following:

a. Screening required in the I, Industrial District when siding or backing on to C-2, Retail, C-1, Office, MU-2, Mixed Use and all residential districts;

b. Screening required in the C-3, Commercial District when siding or backing on to C-1, Office District and all residential districts;

c. Screening required in the C-2, Retail and C-1, Office Districts when siding or backing on to all residential districts;

d. Screening required in the MF, Multiple-Family District when siding or backing on to all other residential districts;

e. Screening required in all nonresidential districts when adjacent to a single-family residence located within an A-O, Agricultural-Open District and no farther than 100 feet from the nonresidential district boundary;

f. Screening required in all nonresidential developed tracts of land within or adjacent to an existing single-family residential development.

(2) In any district where loading areas are visible from a public street, screening shall be provided adjacent to the loading area along the street, allowing for required landscaping.

These standards shall be imposed except where such use was in existence at the date of the original adoption of the Zoning Ordinance (December 11, 1989).

(3) Where permitted, outdoor storage must be screened when visible from any public right-of-way, allowing for required landscaping. An outdoor storage permit may be granted by the Site Development Review Committee for any exceptions to screening and/or landscaping requirements. A person who violates any section of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine not exceeding $2,000.00 per occurrence in accordance with general penalty provisions of City Code Sec. 1-14.

(4) Dumpsters, not including containers 300 gallons or smaller, shall be placed on concrete dumpster pads 6 inches in thickness, 15 feet in width and 12 feet in depth. The pad shall be screened with a 6-foot fence on 3 sides with the fourth side remaining open for access or being fitted with a gate matching the screening on the other 3 sides.

(5) Where screening is required, the following standards shall be observed:

a. Materials approved for use in screening fences are solid wood (not including plywood, particleboard, or similar composite), masonry (brick or stone), or a combination solid wood and masonry. Corrugated metal or fiberglass panels shall not be used as fence materials. Screening shall be provided that completely blocks the view of materials, commodities, or equipment stored. All screening materials shall be finished on the sides facing public rights-of-way. Other types of screening devices may be approved by the Planning and Zoning Commission.

b. Landscaping may be used for screening if the plant materials used are a minimum of four feet tall at the time they are planted. Any plant materials used for screening purposes shall be of an evergreen nature and shall be of sufficient height and type to completely block the view of materials, commodities or equipment stored from adjacent public rights-of-way or property. Any time that plant materials are used for screening purposes, the developer shall post a cash bond to be held in escrow by the City to cover replacement of plant materials. The amount of such bond shall be determined by the City Planner or his or her designee. The bond shall be effective for 2 growing seasons from the time of the initial planting; any excess funds remaining from such bond shall be returned at the end of such period to the developer.

c. When screening is required to separate all other residential districts from either the MF, Multiple-Family or a nonresidential district, or when screening is required to separate nonresidential development from single-family residential development, any fence or wall shall be not less than 6 feet or exceed 8 feet in height above the grade of the adjacent property.

d. Along the property line between nonresidential districts, or on property adjacent to loading areas, outdoor storage and refuse areas, where screening is required, a minimum 6 foot high uniform screening shall be provided.

(6) In any residential district, the maximum height of any fence or wall in a required front setback of a single-family, townhouse, duplex, or patio home lot, shall be as provided:

a. Fencing, screening walls or the combination of berms and fences or screening walls shall not exceed 36 inches in height when placed a distance of 25 feet or less from the adjacent paved street surface.

b. Fencing, screening walls or the combination of berms and fences or screening walls shall not exceed 6 feet in height when placed a distance of more than 25 feet from the adjacent paved street surface.

(7) Where a fence is erected to the rear of the minimum required front setback line, the fence shall not exceed 8 feet in height above the grade of the adjacent property.

(8) A wall or fence, not less than 54 inches in height, with a self-latching gate at all entrances, shall enclose a swimming pool area or surrounding yard area.

(c) Maintenance of screening fences.
Any screening fence erected under the provisions of Sec. 130-37 shall be maintained by replacing or repairing any dead, loose, damaged, or missing fencing materials within 30 days after notification by the zoning official.

Sec. 130-38 Platting property not permanently zoned.

(a) The Planning and Zoning Commission of the City shall not approve any plat of any subdivision within the City limits of the City until the area covered by the proposed plat shall have been permanently zoned by the City Council of the City. A plat may be approved on land with the Agricultural-Open District designation if the proposed use of the property is determined to be the permanent use of the property.

(b) The Planning and Zoning Commission of the City shall not approve any plat or any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the City is pending before the City Council unless and until such annexation shall have been approved by ordinance by the City Council.

(c) In the event the City Council cannot schedule a public hearing on a proposed annexation, the Planning and Zoning Commission, at its discretion, may hold a public hearing on the permanent zoning that is to be given to the area or tract to be annexed. The Planning and Zoning Commission may make a recommendation on both the annexation and zoning to the City Council so that the City Council can, if it desires, act on the annexation with input from the Planning and Zoning Commission regarding appropriate zoning. Zoning may not be placed on any property until the annexation ordinance has officially been adopted.

(d) See Chapter 110 for platting requirements within the City's ETJ.

Sec. 130-39 Classification of new and unlisted uses.

It is recognized that new types of land use will develop and forms of land use not presently anticipated may seek to locate in the City. These may not be specified as a permitted use in any zoning district. 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:

(a) The Planning and Development Services Department shall refer the question concerning 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, anticipated employment, and transportation requirements likely to be generated and the general requirements for public utilities such as water and sanitary sewer.

(b) 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 determine the zoning district or districts within which such use is most similar and should be permitted.

(c) The Planning and Zoning Commission shall forward its findings and recommendations to the City Council as to the classification proposed for any new or unlisted use. The City Council shall by resolution approve the recommendation of the Planning and Zoning Commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. After such resolution, if a zoning change is required, the process specified in Sec. 130-42 shall be followed.

(d) Standards for new and unlisted uses may be interpreted as those of a similar use. When determination of the minimum requirements cannot be readily ascertained, the same process outlined in Sec. 130-39(a), Sec. 130-39(b) and Sec. 130-39(c) shall be followed for determination of the new standards.

130-40 Nonconforming uses and structures.

(a) Intent of provisions.

(1) Within the districts established by this chapter or amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this chapter was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which it is located. It is the intent of this chapter to permit such nonconforming uses and structures to continue, under regulations herein contained, until the same are removed.

(2) It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded or extended, and not be used as grounds for adding other structures or uses prohibited elsewhere in the same district except for any existing or approved municipal services support facilities.

(3) Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

(b) Nonconforming status.

Any use or structure which does not conform with the regulations of the zoning district in which it is located shall be deemed a nonconforming use or structure when:

(1) Such use or structure was in existence and lawfully operating at the time of the passage of the ordinance on February 12, 1990, and has since been in regular and continuous use;

(2) Such use or structure is a lawful use at the time of the adoption of any amendment to this chapter but by such amendment is placed in a district wherein such use is not otherwise permitted and has since been in regular and continuous use; or

(3) Such use or structure was in existence at the time of annexation to the City and has since been in regular and continuous use.

(c) Continuing lawful use of property and existence of structures.

(1) The lawful use of land or lawful existence of structures at the time of the passage of this chapter, although such do not conform to the provisions hereof, may be continued; but if said nonconforming use or structure is discontinued or abandoned, any future use of said premises shall be in conformity with the provisions of this chapter unless conformity is not in the public interest as determined by the Zoning Board of Adjustment.

(2) A nonconforming use, when such nonconforming use of land or structure ceases to be used in such manner for a period of 12 months, shall not be resumed and proof of such event constitutes prima facie evidence of discontinuance or abandonment. Any nonconforming uses which do not involve a permanent type of structure or operation, including manufactured housing, and which are moved from the premises shall be considered to have been abandoned. Nonconforming uses which do involve a permanent type of structure or operation shall not be considered abandoned if one or more of the following conditions are met:

a. The property has been advertised for sale or lease and actively marketed;

b. The premises has been advertised for sale or lease and actively marketed;

c. All licenses, permits, or certifications required for operation have been kept current since the effective date of the ordinance from which this chapter is derived.

(3) No nonconforming use or structure may be expanded or increased beyond the lot or tract upon which such nonconforming use is located as of the effective date of the ordinance from which this chapter is derived except as provided in Sec. 130-40. These provisions apply to any owner or subsequent owner of a nonconforming use as authorized herein.

(4) In those districts where mobile/manufactured homes are considered nonconforming structures, but single-family detached dwellings are a permitted use, an owner of a nonconforming mobile/manufactured home may replace a nonconforming mobile home destroyed by fire, the elements, or other cause, with another mobile home of equal or less square footage.

(d) Changing nonconforming uses.

(1) Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

(2) Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a certificate of occupancy from the Chief Building Official.

(3) A nonconforming use may be changed to another nonconforming use provided that adverse impacts (such as more traffic, noise, vibration, etc.) are not increased.

(e) Extension of nonconforming uses.

A nonconforming use may be expanded by the Zoning Board of Adjustment in accordance with the following:

(1) A nonconforming use located within a structure may be extended throughout the structure.

(2) No structural alteration may be made on or in the building except those required by law to preserve such building in a structurally sound condition.

(3) The number of dwelling units or rooms in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units or rooms existing at the time said use became a nonconforming use.

(4) No nonconforming use within a structure may be extended to occupy any land outside the structure.

(5) No nonconforming use of land or structure shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the land became a nonconforming use, except to provide off-street loading or off-street parking space.

(f) Restoration of nonconforming structure.

(1) If a structure occupied by a nonconforming use is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this chapter. In the case of partial destruction of a nonconforming use structure not exceeding 60% of its total appraised value as determined by the Brazos County Central Appraisal District, reconstruction will be permitted, but the existing square footage or function of the nonconforming use cannot be expanded.

(2) If a structure is nonconforming but the use is conforming to the respective zoning district and the structure is completely destroyed, the structure shall be rebuilt to conform to the provisions of the zoning district wherein it is located.

(3) A structure housing a nonconforming use may be remodeled as long as the size (square footage) of the structure is not increased.

(g) Completion of structures.

Nothing herein contained shall require any change in the plans, construction, or designated use of:

(1) A building or structure for which a building permit has been issued or a site plan approved prior to the effective date of these zoning regulations; or

(2) A building or structure for which a substantially complete application for a building permit was accepted by the Chief Building Official on or before the effective date of these regulations;

(3) provided, however that such building permit shall comply with all applicable ordinances of the City in effect on the date such application was filed and the building permit is issued within 120 days of the effective date of these regulations.

(h) Licensed mobile home parks.

Mobile home parks licensed according to Chapter 74, prior to the adoption of the ordinance from which this chapter is derived shall be allowed to continue as long as the site area and number of units approved in said license is not exceeded. Lapse of said license shall be considered as abandonment of the nonconforming use.

130-41 Zoning Board of Adjustment.

(a) Creation.

There is created a board known as the Zoning Board of Adjustment (ZBA) of the City.

(b) Members and terms of office.

The Zoning Board of Adjustment shall consist of 5 regular members and 2 alternate members who shall be appointed by the City Council in accordance with V.T.C.A., Local Government Code §§211.008--211.011, as amended, to serve for 2 years staggered terms or until their successors are duly appointed.

(c) Appointment of members.

The City Council shall appoint members to the Zoning Board of Adjustment as specified by the City Council adopted policy on the board and commission appointments.

(d) Authority.

The Zoning Board of Adjustment shall have the authority, subject to the standards established in V.T.C.A., Local Government Code §§211.001--211.011, and those established herein, to exercise the following powers and perform the following duties:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.

(2) To permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use or building, on the lot or tract occupied by such a building, in accordance with the standards in Sec. 130-40, provided such activity does not prevent the return of such property to a conforming use.

(3) To authorize in specific cases a variance from the requirements of the Zoning Ordinance, subject to limitation set forth in the ordinance, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

(e) Limitations on authority of Zoning Board of Adjustment.

(1) The Zoning Board of Adjustment may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.

(2) The Zoning Board of Adjustment shall have no power to grant or modify conditional use permits authorized under Sec. 130-33.

(3) The Zoning Board of Adjustment shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the Zoning Board of Adjustment shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.

(4) The Zoning Board of Adjustment shall not grant a request for any variance to any parcel of property or portion thereof upon which a site plan, preliminary plat, or final plat, where required, has not been finally acted upon by both the Planning and Zoning Commission and, where required, by the City Council.

(f) Variances.

(1) The Zoning Board of Adjustment may grant a variance from a requirement of the Zoning Ordinance, if it makes written findings that:

a. The requirement does not allow for a reasonable use of the property;

b. The hardship for which the variance is requested is owing to a special condition inherent in the property itself, such as restricted area, shape, topography or physical features;

c. The special condition is unique to this property and is not generally characteristic of other parcels of land in the area; and

d. Development under the variance does not:

1. Alter the character of the area adjacent to the property;

2. Impair the use of adjacent property that is developed in compliance with the City requirements; or

3. Impair the purposes of the regulations of the zoning district in which the property is located.

(2) A variance may not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor may a variance be granted to permit any person a privilege in developing a

parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

(3) The applicant bears the burden of proof in establishing the facts justifying a variance.

(g) Procedures.

(1) Application and fee.
An application for action, by the Zoning Board of Adjustment, other than an appeal, shall be in writing using forms provided by the city and shall be accompanied by a fee established by the City to cover administrative processing costs.

(2) Notice and hearing.
The Zoning Board of Adjustment shall hold a public hearing on each application for action or appeal. This public hearing shall be held no later than the second scheduled meeting after the application is filed in accordance with the rules adopted by the Zoning Board of Adjustment and the provisions of this chapter. Notice of a public hearing shall be provided to all property owners within 200 feet of the affected property 10 days prior to the public hearing.

(3) Appeals.

a. An appeal may be taken from the decision of an administrative zoning official by an applicant for the permit on which the decision is rendered, by any person or persons aggrieved by the decision or by any officer, department, Zoning Board of Adjustment or bureau of the municipality affected by the decision.

b. The appellant must file with the Zoning Board of Adjustment and the official from whom the appeal is taken a written notice of appeal specifying the grounds for the appeal within 15 days after the decision has been rendered as determined by the rules of the Zoning Board of Adjustment. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Adjustment all papers constituting the record of the action that is appealed.

c. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the Zoning Board of Adjustment facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the Zoning Board of Adjustment or a court of record on application, after notice to the official, if due cause is shown.

d. The appellant party may appear at the appeal hearing in person or by agent or attorney.

e. The Zoning Board of Adjustment shall decide the appeal within a reasonable time. The Zoning Board of Adjustment may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and make the correct order, requirement, decision, or determination and for such purpose the Zoning Board of Adjustment has the same authority as the official.

(4) Vote required for Zoning Board of Adjustment decisions.
The concurring vote of four members of the Zoning Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these zoning regulations, or to effect any variance to the zoning regulations granted by the Zoning Board of Adjustment.

(5) Judicial review.

Any person or persons, jointly or severally, aggrieved by a decision of the Zoning Board of Adjustment, or any taxpayer, or any officer, department, Zoning Board of Adjustment, or bureau of the City may present to a district court, county court, or county court at law a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented within 10 days after the date the decision is filed in the Zoning Board of Adjustment's office.

Sec. 130-42 Changes and amendments to Zoning Ordinance, districts and administrative procedures.

(a) Declaration of policy.

The City declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

(1) To correct any error in the regulations or map;

(2) To recognize changed or changing conditions or circumstances in a particular locality or area;

(3) To recognize changes in technology, the style of living, or manner of conducting business.

(b) Authority to amend the Zoning Ordinance.

The City Council may from time-to-time, after receiving a final report thereon by the Planning and Zoning Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts. Any ordinance may be ordered for consideration by the City Council, be initiated by the Planning and Zoning Commission, or be requested by the owner of real property, or the authorized representative of an owner of real property. In no case shall the City Council act upon any zoning request prior to action by the Planning and Zoning Commission. Consideration for a change in any district boundary line or specific zoning regulation may be initiated only with written consent of the property owner, or by the Planning and Zoning Commission or the City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit proof of ownership.

(c) Residential - Neighborhood Conservation District Rezoning.

(1) Property owners may make application to the City Council for a City initiated rezoning of an entire platted residential subdivision or a single phase/section of a platted residential subdivision presently zoned Residential District-7000 (RD-7) or Residential District-5000 (RD-5) to Residential - Neighborhood Conservation District (R-NC).

(2) An application for a City initiated rezoning of an entire platted residential subdivision or a single phase/section of a platted residential subdivision from Residential District-7000 (RD-7000) or Residential District-5000 (RD-5000) to a Residential - Neighborhood Conservation District (R-NC) must include the Residential - Neighborhood Conservation District Rezoning Petition Verification Response Form. This petition must be sent via regular mail to 100% of the lot of record owners listed within Brazos County Appraisal District Tax Rolls. All returned petition verification response forms shall contain signatures that shall be notarized, regardless of whether the vote cast is a yes or no. No signature affixed to the petition more than 180 days prior to the date of filing the petition with the City Secretary shall be counted. Each lot of record shall have one vote regardless of the number of owners listed in the Brazos

County Appraisal District Tax Rolls. The agent representing the platted subdivision or platted phase of a subdivision shall file a notarized affidavit to attest all petition verification response forms were mailed to the last known owner(s) as listed in the Brazos County Appraisal District Tax Rolls. The Residential - Neighborhood Conservation District rezoning petition verification response form and affidavit form may be obtained at the Planning and Development Services Department.

(3) At least 51% of the land area in the proposed Residential - Neighborhood Conservation District must be presently improved as identified by the Brazos County Appraisal District (BCAD), and an affirmative vote of the owners of at least 66% of the lots of record within the platted subdivision or within a single phase/section of a platted subdivision shall be required for the Planning and Zoning Commission to take up consideration of the proposed rezoning.

(4) The completed rezoning application and petition verification response forms shall be submitted to the City Secretary. The City Secretary shall examine the rezoning application and ascertain whether it is sufficient under Sec. 130-42(c)(2) and Sec. 130-42(c)(3) and shall attach to the petition verification response forms the City Secretary's certificate showing the result of the examination. If the certificate shows the rezoning application is insufficient, the rezoning application may be amended within 10 days from the date of the certificate, after which time the City Secretary shall examine the amended rezoning application. If the City Secretary's certificate shows the amended rezoning application to be insufficient, it shall be returned to the person filing and a new petition for the same subdivision or phase/section shall not be submitted for a period of 180 days. If the rezoning application is found to be sufficient, the City Secretary shall submit the rezoning application to Planning and Zoning Commission without delay.

(5) If rezoned to a Residential - Neighborhood Conservation District, the permitted uses of the property shall be determined and controlled by the use regulations set forth for in Sec. 130-31.

(d) Application for zoning or amendment.

Each application for zoning or for an amendment or change to the existing provisions of this chapter shall be made in writing on a form suitable to the Planning and Development Services Department and shall be filed with the City and shall be accompanied by payment of the appropriate fee to be charged by the City for administering the zoning application.

(e) Public hearing prior to making report.

Prior to making its report to the City Council regarding a proposed zoning change, the Planning and Zoning Commission shall hold at least one public hearing on each application. Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners of property, or to the person rendering the same for City taxes, located within the area of application and within 200 feet of any property affected thereby, within not less than 10 days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail. Although a public hearing must be held by the commission to consider amendments to the text of this chapter which do not change zoning district boundaries, published notice or written notification to individual property owners is not required prior to such hearing.

(f) Failure to appear.

Failure of the applicant or his or her representative to appear before the Planning and Zoning Commission or the City Council for more than one hearing without an approved delay shall constitute sufficient grounds for the Planning and Zoning Commission or the City Council to terminate or deny the application.

(g) Commission consideration and report.

The Planning and Zoning Commission, after a public hearing is held to receive input from interested parties and closed, shall prepare its report and recommendations on the proposed change stating its findings, and evaluation. The Planning and Zoning Commission may defer its report for not more than 90 days from the time it is posted on the agenda until it has had opportunity to consider any other proposed changes which may have a direct bearing thereon. In making its determination, the Planning and Zoning Commission shall consider the following factors:

(1) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.

(2) Whether there is availability of water, wastewater, storm water, and transportation facilities generally suitable and adequate for the proposed use.

(3) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

(4) The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.

(5) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.

(6) Any other factors which will substantially affect the health, safety, morals, or general welfare.

(h) Reasons for denial

If the Planning and Zoning Commission or the City Council deny a zoning request, it shall offer reasons to the applicant for the denial. The City Council shall not hold a public hearing until it receives a final report and action from the Planning and Zoning Commission unless a joint public hearing is held.

(i) City Council consideration.

(1) Proposal recommended for approval by the commission.
Every proposal which is recommended for approval by the Planning and Zoning Commission shall be automatically forwarded to the City 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.

(2) Proposal recommended for denial by the commission.
Planning and Zoning Commission determines that a proposal should be denied, it shall so report and recommend to the City Council and notify the applicant. If the commission recommends denial, the request shall not be forwarded to the City Council unless the applicant so requests or the request is sent for review by the commission by simple majority vote. A request which has received a recommendation for denial from the Planning and Zoning Commission or has been denied by the City Council may be resubmitted at any time for reconsideration by the City (a new filing fee must accompany the request). The City Council may deny any request with prejudice. If a request has been denied with prejudice, the same or similar request may not be resubmitted to the City for 6 months from the original date of denial.

(3) City Council hearing and notice.
Notice of the City Council hearing shall be given in the official newspaper of the City, stating the time and place of such hearing, at least 15 days prior to the date of public hearing.

(4) Three-fourths vote.
In the event a protest to a proposed change to a zoning regulation or district boundary is filed with the City Secretary, duly signed and acknowledged, by the owners of either:

a. 20% or more of the area of the lots or land covered by the proposed change; or

b. By 20% or more of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from such area, such amendments shall not become effective except by affirmative vote of three-fourths of the City Council.

Note: In computing the percentage of land area under this subsection, the area of streets and alleys shall be included. In measuring the distance under Sec. 130-42(i)(4)b, for lots opposite the subject property, the distance shall run from the street frontage of such opposite lots.

(j) Final approval and ordinance adoption.
Upon approval of the zoning request by the City Council, the applicant shall submit a metes and bounds description of each zoning district to the City within 30 days for the preparation of the amending ordinance. The amending ordinance shall be approved within 6 months. If the amending ordinance is not approved within 6 months, the zoning request, at the option of the City Council may be recalled for a new public hearing. The zoning change shall not be effective and official until the amending ordinance is signed by the mayor and the City Secretary under authority of the City Council.

Sec. 130-43 Certificates of occupancy and compliance.

(a) Certificates of occupancy shall be required for any of the following.

(1) Occupancy and use of a building hereafter erected or structurally altered;

(2) Change in use of an existing building to a use of a different classification;

(3) Occupancy and use of vacant land, except agricultural use;

(4) Change in the use of land to a use of a different classification;

(5) Any change in the use of a nonconforming use;

(6) No such use, or change of use, shall take place until a certificate of occupancy has been issued by the Chief Building Official and approved by the Planning and Development Services Department.

(b) Procedure for new or altered buildings.
Written application for a certificate of occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building. The certificate of occupancy shall be issued within 10 days after a written request for the same has been made to the Chief Building Official or his or her agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this chapter.

(c) Procedure for vacant land or a change in building use.
Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a nonconforming use to a conforming use, as herein provided, application for certificate of occupancy shall be made to the Chief Building Official for

review on forms available in the chief building inspector's office. If the proposed use is in conformity with the provisions of this chapter, the certificate of occupancy shall be issued within 10 days after the application for same has been made.

(d) Contents.
Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provision of the building and fire laws and ordinances. A record of all certificates of occupancy shall be kept on file in the office of the Chief Building Official or his or her agent and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.

(e) Temporary certificate.
Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the Chief Building Official for a period not exceeding 6 months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the City relating to the use or occupancy of the premises or any other matter covered by this chapter.

(f) Nonconforming uses.
A record shall be required for all nonconforming uses of land or buildings created by adoption of the ordinance from which this chapter is derived. All known nonconforming uses created by this chapter shall be identified on a City map and filed in the Planning and Development Services Department. No certificate of occupancy shall be granted for any property designated on this map until such use is reviewed and approved in accordance with Sec. 130-40.

Sec. 130-44 Preserving rights in pending litigation and violations under other existing ordinances.

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

Sec. 130-45 Penalty for violations.

Any person or corporation violating any of the provisions of this chapter shall, upon conviction, be fined any sum not exceeding $1,000.00 for each and every day that the provisions of this chapter are violated and each violation shall constitute a separate and distinct offense. In addition to the said penalty provided for, the right is hereby conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded, by a violation of the terms of the ordinance, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available by law and equity in the protection of the rights of such property owners.

Sec. 130-46 Validity.

If any section, paragraph, subdivision, clause, phrase, or provision of this chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this chapter as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

4.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

5.

That the Code of the City of Bryan, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

6.

That if any section, paragraph, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

7.

That it is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of the time, place and purpose of said meetings was given.

8.

It is the intention of the City Council that this ordinance shall become a part of the Bryan City Code and it may be renumbered and codified therein accordingly.

9.

That a person who violates any section of this ordinance is guilty of a misdemeanor and upon conviction is punishable in accordance with Section 1-14 of the City of Bryan Code.

10.

That the City Secretary is directed to publish this ordinance in a newspaper of general circulation in the City of Bryan in compliance with the provisions of the City Charter, which publication shall be sufficient if it contains the title of this ordinance, the penalty provided therein for violation thereof, and the effective date of the ordinance.

11.

That this ordinance shall take effect from and after its final passage and publication as required by law. The effective date of this Ordinance will be _____.

PRESENTED AND GIVEN first reading the 4th day of August, 2015 at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, PASSED AND APPROVED on the 25th day of August, 2015 by a vote of ___ yeses and ___ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

_____
Mary Lynne Stratta, City Secretary

CITY OF BRYAN:

_____
Jason P. Bienski, Mayor

APPROVED AS TO FORM:

_____
Janis K. Hampton, City Attorney

EXCERPT FROM MAY 7, 2015 PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES:

8. **PROPOSED AMENDMENTS TO THE TEXT OF BRYAN'S CODE OF ORDINANCES – A PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission makes recommendation; City Council has final approval).**

   a. **Bryan Code of Ordinances Chapters 62 and 130**
   A recommendation to the Bryan City Council regarding amendments to the text of Bryan Code of Ordinances Chapter 62, Land and Site Development, and Chapter 130, Zoning, correcting internal conflicts, inconsistencies, ambiguities, scrivener's errors, formatting mistakes and other technical irregularities of a non-substantive nature, to make the ordinances easier to use, less prone to misinterpretation and confusion, and more legally defensible. (M. Zimmermann)

Mr. Zimmermann introduced Mr. Kirk Bishop as the consultant working with staff on this project and presented the Commission with information pertaining to the proposed amendments to the text of Bryan's Code of Ordinances Chapters 62 and 130.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Madison moved to recommend approval of the proposal to amend the text of Bryan Code of Ordinances Chapters 62 and 130, as presented, correcting internal conflicts, inconsistencies, ambiguities, scrivener's errors, formatting mistakes and other technical irregularities of a non-substantive nature, to make the ordinances easier to use, less prone to misinterpretation and confusion, and more legally defensible. Commissioner Bienski seconded the motion.

Commissioners thanked staff and Mr. Bishop for their work on the proposed text amendments.

The motion passed unanimously.

duncan associates

March 31, 2015

Martin Zimmermann, AICP
City of Bryan Planning and Development Department
300 South Texas Avenue
Bryan, Texas 77803

RE: Land and Site Development Ordinance and Zoning Ordinance Corrections

Dear Mr. Zimmerman:

As you know, our firm was retained by the City of Bryan in October 2014 to assist in "cleaning up" the City's existing Land and Site Development Ordinance (Chapter 62) and Zoning Ordinance (Chapter 130). The contract scope of services charged Duncan Associates with the task of identifying and correcting internal conflicts, inconsistencies, ambiguities, scrivener's errors, formatting mistakes and other technical irregularities in the two ordinances. The exclusive focus was on proposing non-substantive changes that would make the ordinances easier to use, less prone to misinterpretation and confusion and more legally defensible.

This letter summarizes how we approached the project and the results of our work.

- We kicked off the project on **October 3, 2014,** with a conference call involving our office and staff from the City's Legal and Planning Departments. During this call, staff identified several discrepancies and irregularities that had been observed from past experience.
- On **October 27, 2014,** we delivered an initial reformatted version of the two ordinances and an issue identification list describing approximately 45 types of discrepancies and irregularities that had been identified to-date.
- Following delivery of the initial work product, we held a second conference call on **November 14, 2014**. During this call City Legal and Planning staff provided general feedback and specific comments on the types of changes and formatting presented in the October 27 draft.
- On **December 12, 2014**, we provided City staff with a working draft of the Land and Site Development Ordinance and Zoning Ordinance, as well as a revised issue identification list, which at that point included nearly 50 categories of proposed corrections.
- We conducted our third conference call on **February 5, 2015**, at which time we received general feedback and specific comments on the draft work products.
- On **February 23, 2015,** we delivered revised working drafts of both ordinances, as well as an updated issue identification list.
- On **March 26, 2015**, we held a fourth conference call to discuss final changes to issues list and the draft ordinances.

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P 312 527 2500 | F 312 268 7418 | duncanassociates.com

As a result of the efforts described above, our issue identification and ordinance correction/reformatting work is now complete, and I am pleased to deliver (1) the final issues list ("Technical Issues and Proposed Corrections") and (2) edited versions of the City of Bryan's Land and Site Development Ordinance and Zoning Ordinance.

The final issues list includes 67 categories of discrepancies and irregularities, some of which affect a single ordinance provision, others of which occur multiple times throughout the two ordinances (e.g., capitalization inconsistencies). All of these proposed changes are non-substantive in nature. They are proposed to correct minor errors and inconsistencies within the City's Land and Site Development Ordinance and Zoning Ordinance. As mentioned above, the proposed corrections also help eliminate redundancies and conflicts between the two ordinances and thereby make the regulations easier to use, understand and administer. By helping the eliminate ambiguities and potentially confusing provisions, the changes should provide greater certainty to property owners, developers and other ordinance users.

The changes described in the issues list and identified in the revised/reformatted ordinances fall into the following general categories:

- Typographical errors;
- Incorrect cross-references;
- Inconsistent capitalization, terminology and formatting;
- Inconsistent references to boards, commissions and officials;
- Duplicate (and sometimes conflicting) provisions within the two ordinances; and
- Confusing terminology and phrasing.

I believe that the work conducted with the assistance of City staff will improve clarify and usability, providing benefits to all. I recommend that you forward the issues list and the revised ordinances to the Planning and Zoning Commission and City Council for their review and consideration for adoption.

Thank you for the opportunity and for your assistance. Please let me know if you have any questions or additional requests. I look forward to meeting with the Planning and Zoning Commission and City Council in the coming weeks to present and discuss this work.

Sincerely,

Kirk Bishop
Principal

Zimmermann, Martin

From: Roger E. Smith [redacted]
Sent: Tuesday, April 14, 2015 2:41 PM
To: Zimmermann, Martin
Subject: RE: proposed non-substantive changes to Chapters 62 and 130

Martin:

Thanks for sending the material on the proposed changes. I have reviewed the changes and believe that your consultant & City staff have done an excellent job of identifying the conflicting issues in the current Ordinances and recommending appropriate changes.

Thanks
Roger

Roger E. Smith, P.E., Ph.D.
Professor of Civil Engineering, Retired
Zachry Department of Civil Engineering
Texas A&M University

From: Zimmermann, Martin [mzimmermann@bryantx.gov]
Sent: Friday, April 10, 2015 12:17 PM
To: Roger E. Smith
Subject: proposed non-substantive changes to Chapters 62 and 130

Mr. Smith –

As discussed during our phone conversation yesterday, here is a link to the Planning and Zoning Commission's workshop agenda for next Thursday, April 16.

http://gis.bryantx.gov/public/P&Z/2015/04-16-15/4-16-2015 - workshop.pdf

Under agenda item no. 3, there are links to 4 documents related to proposed corrections to the City's Land and Site Development and Zoning Ordinances that City staff has been working on with a consulting firm since last fall. The documents are:

1. cover letter from consultant
2. overview of technical issues and proposed corrections
3. reformatted Chapter 62 with draft corrections
4. reformatted Chapter 130 with draft corrections

During the workshop meeting next Thursday, I will give the Commission an overview regarding this project in response to the 3 inconsistencies that you had pointed out to staff last summer. As you can see on the attached, a detailed review of both ordinances yielded the need for several additional corrections (67 issues total).

The Commission will not take any action regarding these draft ordinances next Thursday so that Commissioners have time to study the proposed changes. The Commission is tentatively scheduled to consider the proposed corrections during its regular meeting on May 7.

You are welcome to review the draft ordinances and provide any feedback, comments or suggestions you might have. Any comments received prior to the March 7 P&Z meeting will be forwarded to the Commission before their consideration of this matter.

Please let me know if you have any questions.

Have a nice weekend!

Sincerely,

Martin Zimmermann, AICP
Planning Manager
City of Bryan, Texas
979.209.5030 (phone)
979.209.5035 (fax)
www.bryantx.gov

If you have recently done business with our department, please take a moment to complete our online Customer Service Survey.