City of Bryan
Zoning Ordinance

CITY OF BRYAN

The Good Life, Texas Style.™

Chapter 130
Bryan Code of Ordinances

TABLE OF CONTENTS

Section 130-1. Enacting clause. 5
Section 130-2. Purpose. 6
Section 130-3. Definitions. 13

Section 130-4. Zoning district map. 44
Section 130-5. Zoning district boundaries. 45
Section 130-6. Compliance required. 47
Section 130-7. Zoning upon annexation. 48

Section 130-8. Zoning districts established. 49
Section 130-9. A-O, Agricultural-Open District. 50
Section 130-10. RD-7 Residential District - 7000. 53
Section 130-11. RD-5 Residential District - 5000. 55
Section 130-12. MF Multiple Family Residential District. 55
Section 130-13. C1, Office District. 58
Section 130-14. C2, Retail District. 61
Section 130-15. C3, Commercial District. 64
Section 130-16. Downtown Districts. 68
Section 130-17. DT-N, Downtown North District. 69
Section 130-18. DT-S, Downtown South District. 72
Section 130-19. DT-C, Downtown Civic District. 75
Section 130-20. The South College Districts. 78
Section 130-21. SC-B, South College Business District. 79
Section 130-22. SC-R, South College Residential District. 82
Section 130-23. I, Industrial District. 84
Section 130-24. HP, Historic Preservation Overlay District. 88
Section 130-25. PD, Planned Development District. 94
Section 130-26. West Villa Maria, FM 2818, and FM 158 Corridor Overlay Districts. 97
Section 130-27. SH 47, Corridor Overlay District. 100
Section 130-28. South College Corridor Overlay District. 102
Section 130-29. MU-1, Mixed Use Residential District. 104
Section 130-30. MU-2, Mixed Use District. 106
Section 130-31. R-NC Residential-Neighborhood Conservation. 109

Section 130-32. Buffer area requirements. 112
Section 130-33. Conditional use permits. 114
Section 130-34. Special and supplementary regulations. 117
Section 130-35. Wireless telecommunication facilities. 126
Section 130-36. Manufactured housing land lease communities new development. 133
Section 130-37. Screening fence standards. 138
Section 130-38. Platting property not permanently zoned. 141
Section 130-39. Classification of new and unlisted uses. 142
Section 130-40. Nonconforming uses and structures. 143
Section 130-41. Zoning board of adjustment. 146

Section 130-42. Changes and amendments to zoning ordinance, districts and administrative procedures. 149
Section 130-44. Preserving rights in pending litigation and violations under other existing ordinances. 155
Section 130-45. Penalty for violations. 156
Section 130-46. Validity. 157
Section 130-47. Planned development districts. 158

[This page was intentionally left blank.]

Section 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.

Section 130-2. Purpose.

1. 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*

2. In addition to the purpose set out immediately above in Sec 130-2 (1), 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 Definitions:

   A. *Purpose*. 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.

   B. It is the intent of the city council that the locational regulations of this chapter within the city's unified development code 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.

C. *Findings.* 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:

1) *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.

2) *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.

3) *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.

4) *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.

5) *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.

6) *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.

7) *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.

8) *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.

9) *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.

10) *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 two 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:

    a. Those studies noted and approved in H and A Land Properties v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007), including two studies for sale of

materials for of-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 percent believed commercial property value would also be negatively impacted. The Oklahoma City study, which surveyed one hundred Oklahoma City real estate appraisers, produced similar results: Seventy-four percent predicted a negative impact on real estate value in the surrounding area.

b. 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.

c. 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) 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) block of the site.

d. “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:

1. There was a statistically significant correlation between neighborhood deterioration as reflected in housing values and crime rates and the location of adult entertainment businesses;

2. The statistical relationship was still significant after taking into account certain marketing factors; and

3. There was a stronger correlation with neighborhood deterioration after establishment of an adult entertainment business than before.

e. 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) adult business each, and two (2) study areas were chosen containing two (2) adult businesses each. Within those study areas containing adult businesses, sex crimes were found to be from two (2) to nearly five (5) times the city-wide average. Also, sex-related crime rates were found to be sixty-six (66) per cent higher in study areas containing two (2) adult businesses as compared to study areas containing only one (1) adult business. Austin also conducted a survey of one hundred twenty (120) real estate appraisers and lending institutions. Eighty-eight (88) per cent of those responding indicated a belief that an adult bookstore would decrease residential property values within one (1) block, and fifty-nine (59) per cent felt that residential property values would decrease within three (3) blocks. A survey of three (3) adult businesses in Austin revealed that only three (3) customers had addresses within one (1) mile of an adult business and forty-four (44) per cent of all customers visiting the three (3) adult businesses had addresses outside the City of Austin.

11) *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.

a. 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.

b. 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.

12) *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.

13) *Legislative Finding Number 13*:

a. 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 placed in Sec. 130-23. I, Industrial District as currently provided in the Bryan Code of Ordinances. 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. The relevant portion of Sec. 130-23(II) already currently provides such use, and the relevant specifications as follows are hereby affirmed and ratified under these findings:

Sec. 130-23. I, Industrial District.

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.

II. Permitted uses.

(a) Accessory/incidental uses to the main use;

(b) Adult entertainment;

***

b. Further, the city 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, (III)(c), 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. The relevant portion of Sec. 130-23 (III)(*c*) already currently provides such requirements, and the relevant specifications as follows are hereby affirmed and ratified under these findings:

Sec. 130-23.

III. Other regulations.

(a) As established by all other applicable sections and/or ordinances.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(g) Wireless telecommunication facilities shall be allowed only as provided for in section 130-35.

Section 130-3. Definitions.

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) or fewer persons per machine at any one (1) 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) 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) 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) 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) 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 Section 130-3, Definitions, adult entertainment, (31) Exclusions.

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) 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 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) 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) 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 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."

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 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 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 two 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 six 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 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 two 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.

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 attached living units designed to be occupied by two 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 site development review 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 section 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 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 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) physically or mentally impaired or handicapped persons are provided food and shelter, as well as supervised care and rehabilitation by not more than two 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 persons who have demonstrated a tendency toward alcoholism, drug abuse, antisocial or criminal conduct, together with not more than two 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 two 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 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 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 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 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 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 eight 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 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 saddles or seats, and which may have a sidecar attached. For purposes of this chapter, motorbikes, motor scooters, mopeds, three or four 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.

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 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 district 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 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.

~~*Open storage (also outside storage)* shall mean the keeping, displaying, or storing, outside a building, of any new or used goods, material, merchandise, or equipment on a lot or tract for more than 24 hours.~~

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 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 three 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 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, 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 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 months in any calendar year.

Site shall 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 feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

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 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 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 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 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 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 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 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 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.

Section 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.

(1) 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.

(2) 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.

Section 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:

(1) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerline.

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

(3) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.

(5) 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.

(6) Boundaries indicated as parallel to or extensions of features indicated in 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.

(7) 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.

(8) 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.

(9) 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 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.

(10) 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.

Section 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.

Section 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:

(1) 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.

(2) 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, Agricultural-Open District, by the city council in the manner prescribed by this chapter.

Section 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-7000	Residential District - 7000
RD-5000	Residential District - 5000
MF	Multiple-family District
DT-N	Downtown North District
DT-S	Downtown South District
DT-C	Downtown Civic District
SC-B	South College Business
SC-R	South College Residential
C1	Office District
C2	Retail District
C3	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 130-3.

Section 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 130-34(a));
- Accessory dwelling unit (refer to section 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 ~~open storage~~ 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 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 acres minimum park size;
- Manufactured homes on individual lots of one acre or more;
- Municipal services support facilities;
- ~~Open~~ General outdoor storage;
- Outdoor theater or amphitheater;
- Police station;
- Private utility company with ~~outside~~ 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, ~~open~~ general outdoor storage or sales.

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking, 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, 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 130-35.

(4) ~~Open~~ 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 130-34(l).

Section 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 130-34(a));
- Detached dwelling units with no more than four un-related 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 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 130-34(b));
- Accessory structure if greater than the standards set forth in section 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 building setbacks and lot standards, article IV, chapter 62, Bryan City Code.

(e) *Parking regulations:* Refer to access and off-street parking, 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 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) ~~Open~~ 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, Bryan City Code, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Duplex, patio home, and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in section 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 percent of the site landscaped.

Section 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.

(c) *Conditional uses:* Any conditional use listed in RD-7 with the addition of:
Halfway house.

(d) *Lot area, height, and setback requirements:* Refer to building setbacks and lot standards, article IV, chapter 62, Bryan City Code.

(e) *Parking regulations:* Refer to access and off-street parking, 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 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) ~~Open~~ 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 130-34 for criteria). Duplex and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in section 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, 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.

Section 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 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 RD-5 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;
- Duplex;
- Essential municipal uses;
- Laundromats (self service washateria);
- Multiple-family dwelling (apartment building, triplex, four-plex), greater than two dwelling units per structure;
- Nursing home (retirement home);
- Personal Care Homes;
- Townhouses.

(c) *Conditional uses.* Any conditional use allowed in RD-5 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 building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, 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 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) ~~Open~~ Outdoor storage is prohibited.

(4) A paved walkway shall connect the front door of each multifamily ground floor unit to a parking area.

(5) Refer to section 130-34 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, 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.

Section 130-13. C1, Office District.

(a) *General purpose and description.* The C1, 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 stories and utilizing buffers and landscape materials. Adaptive reuse of existing structures is encouraged. Sites zoned office may be built over two 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 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 ~~outside~~ 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 building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(g) *Other regulations:*

(1) As established by all other applicable sections and/or ordinances.

(2) ~~Open~~ Outdoor storage and display is prohibited~~.~~, except as may be provided for in Section 130-34(l).

(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, 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, townhouse, and patio home dwellings permitted conditionally in this district shall conform to standards as specified in section 130-34.

(8) Wireless telecommunication facilities shall be allowed only as provided for in section 130-35.

Section 130-14. C2, Retail District.

(a) *General purpose and description.* The C2, 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 stories in height. The Retail 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 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;
- Theater--Indoor.

(c) *Conditional uses.* Any conditional use allowed in the office district with the addition of:

- Automobile repair/sales/rental;
- Boat repair/sales/rental;
- Commercial amusement (outdoor);
- 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 building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(g) *Other regulations:*

(1) As established by all other applicable sections and/or ordinances.

(2) ~~Open~~ Outdoor storage and display is prohibited~~.~~, except as may be provided for in Section 130-34(l).

(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. Duplex, townhouse, and patio home dwellings permitted conditionally in this district shall conform to standards as specified in section 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, 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 130-35.

Section 130-15. C3, Commercial District.

(a) *General purpose and description.* The C3, 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 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 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 ~~outside~~ 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 District with 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 building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, 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 district. Duplex, townhouse, and patio home dwellings permitted conditionally in this district shall conform to standards as specified in section 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, 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 130-35.

(8) The following regulations pertain to portable/small commercial structures-permanent which are permitted in this district.

a. Refer to building setbacks and lot standards, 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 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 months.

(10) ~~Open~~ 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 130-34(l).

Section 130-16. 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.

Section 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 130-34(i));
- 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 building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking ordinance, 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 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) ~~Outside~~ Outdoor storage and display is prohibited ~~as established by section 130-34.~~, 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 130-34(l).

(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 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, 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 130-35.

(7) Special use licenses within the DT-N, Downtown North District shall be allowed only as provided for in section 62-243.

Section 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.

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking ordinance, article VI, chapter 62.

(f) *Architectural regulations.* Building permits within the DT-S, Downtown South Zoning Districts 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.* ~~Outside storage is prohibited as established by section 130-34.~~

(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 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, 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 130-35.

(6) Special use licenses within the DT-S, Downtown South District shall be allowed only as provided for in section 62-243.

(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 130-34(l).

Section 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 ~~outside~~ 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 building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking ordinance, 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 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) Outside Outdoor storage is prohibited as established by section 130-34.~~
(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 130-34(l).

(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 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, 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 130-35.

(7) Special use licenses within the DT-C, Downtown Civic District shall be allowed only as provided for in section 62-243.

Section 130-20. The 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.

Section 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 section 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 ~~outside~~ 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 ~~outside~~ outdoor storage);
- Automobile sales/rental/service (no ~~outside~~ outdoor storage or display area);
- Boat sales/rental/service (no ~~outside~~ 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 ~~outside~~ 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 building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(g) *Other regulations:*

(1) As established by all other applicable sections and/or ordinances.

(2) ~~Open~~ Outdoor storage is prohibited, including the ~~outside~~ outdoor display or storage of vehicles. Outdoor ~~P~~plant displays are permitted where a greenhouse is a permitted use. Sidewalk display and outdoor display shall be permitted as provided for in Section 130-34(l).

(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, townhouse, and patio home dwellings permitted conditionally in this district shall conform to standards as specified in section 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 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 130-35.

Section 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 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 lots);

- Police station;
- Professional offices;
- Retirement or nursing home;
- Townhouses.

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking, 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 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) ~~Open~~ 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) Duplex, patio home, and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in section 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 vehicles on the site.

(6) Professional offices, conditionally permitted in this district shall have a minimum of eight percent of the site landscaped.

Section 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 ~~outside~~ 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;
- 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 feet setback for every one foot in height shall be observed adjacent to any residential property line. Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access off-street parking, 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, 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 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.

Section 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 comprehensive zoning 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:
      i. Date of construction, if known;
      ii. Builder or architect, if known;
      iii. Chain of uses and ownership;
      iv. Building materials;
      v. Construction technique;
      vi. 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) 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) 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 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 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 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 forty-five (45) days from the date the application is received. The Historic Landmark Commission shall act upon the Certificate of Appropriateness within forty-five (45) days after the meeting. In the event the Historic Landmark Commission does not act within ninety (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) days after such action.

(6) Certificate of Appropriateness' are valid for a period of one (1) 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 sixty (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) 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*

Refer to Chapter 98: Signs of the Bryan Code of Ordinances.

Section 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 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 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 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 zoning districts are permitted in a PD-H development.

(2) *Planned Development-Business (PD-B).* Any use permitted in the C1, C2, and C3 zoning districts are permitted in a PD-B development, excluding residential uses.

(3) *Planned Development-Industrial (PD-I).* Any use permitted in the I zoning 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, C1, C2, C3, and I zoning districts are 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 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 city 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 AO zoning districts, such structures shall be located one foot from the boundary of the open space buffer described in section 130-25(c)(4)a. for each two 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 control 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 section 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 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 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.

Section 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) *Open storage.* Open storage, as defined in the zoning ordinance, is prohibited except for the display of operable vehicles for sale at a dealership and inventory for sale of such.~~

~~(2)~~ (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.

~~(3)~~ (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.

~~(4)~~ (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 feet in height above the surface of the loading area or dock, as prescribed by the table below.

~~(5)~~ (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.

~~(6)~~ (5) *Screening.* A decorative wall or landscaped earth berm at least three feet in height, or dense shrubbery having year-round foliage at least four 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.

~~(7)~~ (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.

~~(8)~~ (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.

~~(9)~~ (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
~~Open storage~~	~~Prohibited~~
Building materials	At least 75 percent nonmetallic
Utility equipment	Screened
Vehicle loading	Screened by an architectural element of at least six feet in height
Solid waste containers	Screened

Street frontage screening	Screened by a wall or earth berm of at least three feet in height, or shrubbery of at least four 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

Section 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) *Open storage.* Open storage, as defined in the zoning ordinance, is prohibited except for the display of operable vehicles for sale at a dealership and inventory for sale of such.~~

~~(2)~~ (1) *Building materials.* One hundred percent of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

~~(3)~~ (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.

~~(4)~~ (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 feet in height above the surface of the loading area or dock, as prescribed by the table below.

~~(5)~~ (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.

~~(6)~~ (5) *Screening.* A decorative wall or landscaped earth berm at least three feet in height, or dense shrubbery having year-round foliage at least four 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.

~~(7)~~ (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.

~~(8)~~ (7) *Screening fences.* All screening fences shall be 100 percent masonry.

~~(9)~~ (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
~~Open storage~~	~~Prohibited~~
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 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 feet in height, or shrubbery of at least four 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

Section 130-28. South College 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 the South College Corridor. This corridor includes all land within the SC-B, South College Business and SC-R, South College Residential zoning 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) *Open storage.* Open storage, as defined in the zoning ordinance, is prohibited. This includes the display of operable vehicles for sale at a dealership and inventory for sale of such.~~

~~(2)~~ (1) *Building materials.* One hundred percent of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

~~(3)~~ (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.

~~(4)~~ (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 feet in height above the surface of the loading area or dock, as prescribed by the table below.

~~(5)~~ (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.

~~(6)~~ (5) *Screening.* A decorative wall or landscaped earth berm at least three feet in height, or dense shrubbery having year round foliage at least four 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.

~~(7)~~ (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.

~~(8)~~ (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.

~~(9)~~ (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
~~Open storage~~	~~Prohibited~~
Building materials	100 percent nonmetallic
Utility equipment	Screened
Vehicle loading	Screened by an architectural element of at least six feet in height
Solid waste containers	Screened
Street frontage screening	Screened by a wall or earth berm of at least three feet in height, or shrubbery of at least four feet in height
Outdoor parking	Screened when visible from street right-of-way
Fuel pumps	Screened
Vehicle drive-up window	Screened
Utility wires	Underground

Section 130-29. MU-1, Mixed Use Residential District.

(a) *General purpose and description.* The MU-1, 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 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 zoning district with the addition of: Manufactured Homes on Individual Lots.

(c) *Conditional uses.* Any conditional use allowed in a RD-5 zoning district with the addition of: manufactured housing land lease communities.

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking, 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, 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 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 as stated in the manufactured/mobile home park ordinance (chapter 74).

(3) All mobile/manufactured homes shall be skirted with suitable weatherized material.

(4) ~~Open~~ 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 section 130-34 for criteria). Duplex and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in section 130-34.

Section 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 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 section 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 building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking, 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, 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) Duplex, patio home, and townhouse dwellings permitted in this district shall conform to standards as specified in section 130-34.

(6) Wireless telecommunication facilities shall be allowed only as provided for in section 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) ~~Open~~ 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 130-34(l).

Section 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) 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 un-related 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 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 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 un-related 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 building setbacks and lot standards, article IV, chapter 62, Bryan City Code.

(e) *Parking regulations:* Refer to access and off-street parking, 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 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 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) ~~Open~~ 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, Bryan City Code, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Duplex, patio home, and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in section 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 percent of the site landscaped.

Section 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. 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 130-37.

(b) The depth of the side and rear buffer setbacks shall be in accordance with the following:

(1) One hundred feet in the I, Industrial District and for Municipal Services Support Facilities when siding or backing on to C2, Retail, C1, Office, MU-2, Mixed Use District and all Residential Districts.

(2) Seventy-five feet in the C3, Commercial District and for Essential Municipal Uses when siding or backing on to C1, Office and all Residential Districts.

(3) Fifty feet in the C2, Retail District when siding or backing on to all Residential Districts.

(4) Twenty-five feet in C1, Office District when siding or backing on to all Residential Districts.

(5) Twenty-five 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 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. Landscaping used in place of screening, allowed in section 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 feet in the I, Industrial District and Municipal Services Support Facilities when siding or backing on to C2, Retail, C1, Office, MU-2, Mixed Use, and all Residential Districts.

(2) Forty-five feet in the C3, Commercial District and for Essential Municipal Uses when siding or backing on to C1, Office and all Residential Districts.

(3) Thirty feet in the C2, Retail District when siding or backing on to all Residential Districts.

(4) Fifteen feet in the C1, Office District when siding or backing on to all Residential Districts.

(5) Fifteen 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 feet in the I, Industrial District when siding or backing on to C2, Retail, C1, Office, MU-2, Mixed Use, and all Residential Districts.

(2) Fifty feet in the C3, Commercial District when siding or backing on to C1, Office and all Residential Districts.

(3) Fifty feet in the C2, Retail District when siding or backing on to all Residential Districts.

(4) Fifty feet in the C1, Office District when siding or backing on to all Residential Districts.

(5) Fifty 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).

(6) One hundred feet in the I, Industrial District and/or Municipal Services Support Facilities when siding or backing on to C2, Retail, C1, Office, MU-2, Mixed Use District and all Residential Districts.

Section 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 ten 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 in nonresidential and multifamily development, 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 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 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 section 130-43 of these regulations.

(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 review committee's approval (refer to nonresidential and multifamily development, 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 review committee may approve the change or forward to the site 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 section 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 planning services within ten 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: 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 130-29.

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 130-24.

Section 130-34. Special and supplementary regulations.

(a) *Accessory structures:*

(1) In a RD, MF, or MU-1 district, 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 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 District, 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 requirements of section 62-251, special use license, of the site development review 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. Seven hundred twenty-five square feet maximum when placed on a lot less than 7,001 square feet.

b. One thousand twenty-five square feet maximum when placed on a lot between 7,001 square feet and one acre.

c. One thousand five hundred square feet maximum when placed on a lot greater than one acre.

d. One thousand five hundred and one 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) *Special height limitations.* The height limitations specified by this chapter and in building setbacks and lot standards, 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.

(d) *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).

(e) *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.

(f) *Patio home requirements.* (See also chapter 62).

(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.

(g) *Townhouse requirements.* (See also chapter 62).

(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.

(h) *Duplex requirements.* (See also chapter 62). Duplex units shall conform to the requirements for single-family residential development as specified in each district unless otherwise specified in chapter 62.

(i) *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, 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.

(j) *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 C1, Office and C2, 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 effective date of this chapter, 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.

(k) 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.

(l) *Outdoor Display and Storage requirements:*

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.

(1) 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.

(2) 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.

(3) 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 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.

(4) 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.

(5) 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 industrial zoning districts.

(6) 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

Section 130-35. Wireless telecommunication facilities.

(a) *Definitions.* 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:

(1) Omni-directional antenna (also known as a "whip" antenna) transmits and receives radio frequency signals in a 360 degree radial pattern.

(2) Directional antenna (also known as a "panel" antenna) transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.

(3) 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 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 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 shall mean a WTF measuring greater than 110 feet (or 33 meters) in height.

Minor facility 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:

(1) *Monopole tower*. A self-supporting structure composed of a single spire used to support telecommunications antenna and/or related equipment.

(2) *Lattice tower*. A self-supporting three or four sided, open, steel frame structure used to support telecommunications antenna and/or related equipment.

(3) *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 services staff has determined three 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 meters;

4. Omni-directional antenna (whip antenna) six 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 meters;

3. Omni-directional antenna (whip antenna) greater than six 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.

Wireless Telecommunication Facilities Siting Matrix

Type of WTF	Zoning												
✓ = permitted use Q = conditional use permit X = not permitted	A-O	RD-7	RD-5	MF	C1	C2	C3	I	MU-1	MU-2	Overlay Districts Downtown Historic District	Eastside Historic District	Villa Maria Corridor
Minor Facility -													
a. new transmission tower ≤ 35 feet (10.5 meters) in height	Q	Q	Q	✓	✓	✓	✓	✓	Q	Q	Q	X	Q
b. parabolic antenna 1 meter or less	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
c. parabolic antenna over 1 meter and under 2 meters	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	✓
d. omni-directional antenna (whip antenna) 6" in diameter or less and not extending 12' above support structure	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
e. directional antenna 1 meter or less measured across the longest dimension	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
f. direct-to-home service antenna and citizen's band radio	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
g. stealth facility ≤ 35 feet (10.5 meters) in height	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

* See Section 62-661 of the Bryan Code of Ordinances for other requirements, including screening from public right-of-way.
* Platting is required for any WTF which must go through SDRC and is locating on unplatted or subdivided property that is less than 5 acres.

Type of WTF	Zoning												
✓ = permitted use Q = conditional use permit X = not permitted	A-O	RD-7	RD-5	MF	C1	C2	C3	I	MU-1	MU-2	Overlay Districts Downtown Historic District	Eastside Historic District	Villa Maria Corridor
Intermediate Facility -													
a. new transmission tower > 35 feet (10.5 meters) and ≤ 110 feet (33 meters) in height		Q	Q	Q	Q	Q	Q	✓	Q	Q	Q	X	Q
b. parabolic antenna over 2 meters	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	✓
c. omni-directional antenna (whip antenna) greater than 6" in diameter and/or extending 12' above support structure	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	✓
d. directional antenna over 1 meter measured across the longest dimension	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	✓
e. stealth facility > 35 feet (10.5 meters) and ≤ 110 feet (33 meters) in height	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

* See Section 62-661 of the Bryan Code of Ordinances for other requirements, including screening from public right-of-way.
* Platting is required for any WTF which must go through SDRC and is locating on unplatted or subdivided property that is less than 5 acres.

Type of WTF	Zoning												
✓ = permitted use Q = conditional use permit X = not permitted	A-O	RD-7	RD-5	MF	C1	C2	C3	I	MU-1	MU-2	Overlay Districts Downtown Historic District	Eastside Historic District	Villa Maria Corridor
Major Facility-													
a. new transmission tower > 110 feet (33 meters) and ≤ 200 feet in height	Q	Q	Q	Q	Q	Q	Q	✓	Q	Q	Q	X	Q
b. stealth facility > 110 feet (33 meters) and ≤ 200 feet in height	Q	Q	Q	Q	Q	Q	Q	✓	Q	Q	Q	Q	Q

* See Section 62-661 of the Bryan Code of Ordinances for other requirements, including screening from public right-of-way.
* Platting is required for any WTF which must go through SDRC and is locating on unplatted or subdivided property that is less than 5 acres.

(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 section 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.

Section 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 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 section 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 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 criterion in section 130-33 will govern the issuance of conditional use permits in the following zoning districts:

A-O	Agricultural-Open District
MF	Multiple-Family District
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 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 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 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 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 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.

(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 in section 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-inch caliper size), either existing or new, for each individual lease lot.

(13) *Public street requirements.* 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 vehicles on a paved surface by providing one of the following options:

(i) A two 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 inches deep. Driveway dimensions shall be measured from the interior edge of paving or sidewalk.

2. *Double wide lots.* A minimum of three vehicles on a paved surface by providing one of the following options:

(i) A three car carport or garage,

(ii) A driveway measuring 12 feet wide by 55 feet, six inches deep, or

(iii) A driveway measuring 27 feet wide by 18 feet, six 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 lease lots shall be provided in common parking areas. The parking and circulation criterion in 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.

(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 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 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 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.

Section 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, 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 C2, Retail, C1, Office, MU-2, Mixed Use and all Residential Districts;

b. Screening required in the C3, Commercial District when siding or backing on to C1, Office District and all Residential Districts;

c. Screening required in the C2, Retail and C1, 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, Agriculture-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, ~~open~~ outdoor storage must be screened when visible from any public right-of-way, allowing for required landscaping. An ~~open~~ 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 section 1-14.

(4) Dumpsters, not including containers 300 gallons or smaller, shall be placed on concrete dumpster pads six inches in thickness, 15 feet in width and 12 feet in depth. The pad shall be screened with a six-foot fence on three sides with the fourth side remaining open for access or being fitted with a gate matching the screening on the other three 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 two 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 a single-family residential district (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 feet or exceed eight 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, ~~open~~ outdoor storage and refuse areas, where screening is required, a minimum six 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 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 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 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.

Section 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) Refer to chapter 110, and the extraterritorial jurisdiction (ETJ) policy for platting requirements within the city's ETJ.

Section 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:

(1) The planning services division 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.

(2) The planning and zoning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use is most similar and should be permitted.

(3) 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 section 130-44 shall be followed.

(4) 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 subsections (1), (2), and (3) of this section shall be followed for determination of the new standards.

Section 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. (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 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 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 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 chief building official on or before the effective date of these regulations;
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 nonconforming use as stated in subsection (b) and (c) of this section.

Section 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 board of adjustment shall consist of five regular members and two 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 two 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 of board.* 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 section 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 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 board:*

(1) The board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.

(2) The board shall have no power to grant or modify conditional use permits authorized under section 130-33 of these regulations.

(3) The board 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 board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.

(4) The board 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 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 board 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 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, board or bureau of the municipality affected by the decision.

b. The appellant must file with the board 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 board. The officer from whom the appeal is taken shall forthwith transmit to the board 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 board 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 board 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 board shall decide the appeal within a reasonable time. The board 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 board has the same authority as the official.

(4) *Vote required for board decisions.* The concurring vote of four members of the board 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 board.

(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, board, 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 days after the date the decision is filed in the board's office.

Section 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 ResidentialDistrict-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 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 office of development services.

(3) At least 51 percent 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 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 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 sections 130-41(c)(2) and (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 ten 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 section 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 planning services division 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 ten 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.* When the 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 six 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. Twenty percent or more of the area of the lots or land covered by the proposed change; or

b. By twenty 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 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 subsection (i)(4)b. of this section, 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 six months. If the amending ordinance is not approved within six 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.

Section 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.

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 planning services.

(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 certificate shall be issued within ten days after a written request for the same has been made to said 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 said 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 ten 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 six 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 services 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 130-40.

Section 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.

Section 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.

Section 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.

Section 130-47. 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.