

## **ZONING \***

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**\*Charter references – Sec. 10.13. Boards, Agencies, and Commissions.** The City Council shall have the authority to establish by ordinance such boards, agencies, and commissions as it may deem necessary or desirable for the conduct of the City’s business and the management of its affairs.

**Cross references –** Streets and Sidewalks, chapter 91; Animals, chapter 95; Business Regulations, chapter 110; Building Regulations, Construction, chapter 150; Man. Homes and Home Parks, Rec. Vehicle Parks, chapter 151; Subdivisions, chapter 152.

**State law reference –** Municipal zoning authority V. T. C. A. Local Government Code §§ 211.002, 211.006, 211.007.

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## **ARTICLE I IN GENERAL**

### **Sec. 110-1. General Purpose.**

The purpose of this chapter shall be to:

1. Promote the desirable development of all land.
2. Protect the desirable development.
3. Promote stability of development.
4. Enhance and protect building and land values.
5. Protect the public health and general welfare.

**State law reference** -- Zoning regulations to be designed to carry out certain planning purposes, V.T.C.A., Local Government Code § 211.004.

### **Sec. 110-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular. The word "shall" is mandatory and not discretionary; the word "may" is permissive.

**Accessory building** means a building subordinate to the principal building on a lot. Where a wall or portion of a wall is common to the principal building or when the roof is attached to the principal building, the accessory building shall be counted as part of the principal building.

**Accessory use** means land and /or building uses which are allowed in a zone only when they are clearly subordinate to and in conjunction with a permitted use.

**Apartment hotel** means a building with three (3) or more apartments and with the dining and cooking facilities separate.

**Apartment house or rooming house** means a building with three (3) or more apartments and without separate dining or cooking facilities.

**Boardinghouse** means a building other than a hotel, apartment hotel or apartment house where lodging with meals is offered for compensation.

**Building** means any structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property.

**Building line** means a line, usually parallel to street or property line, beyond which buildings shall not be erected. Once a building is legally erected under the provisions of this chapter, the front of the building shall be considered to be the building line for that building for the purpose of determining placement of all fences, except ornamental fences as outlined in section 110-171.

**Bungalow court** means a development consisting of two (2) or more one-family or two-family dwellings on a single tract where the building may face onto a courtyard or mall rather than on the street.

**Church** means a facility principally used for people to gather together for public worship, religious training, or other religious activities. This includes monasteries, convents, rectories, etc. This does not include home meetings or other religious activities conducted in a privately occupied residence.

**Common area** means an area held, designed and designated principally for the common use of the occupants of a townhouse project.

**Conditional uses** means land and / or building uses which, because they may generate special problems such as excessive traffic, excessive noise or other conditions, may in certain cases prove undesirable for a certain zone. Each must be treated separately, and each must attain approval of the planning commission. The approval of one conditional use in a zone does not mean that this becomes a permitted use.

**Customary home occupants** means an occupation which may be conducted in the home without changing the character of the residential use and which is incidental and secondary to the residential use. See section 110-161.

**Day care facility** means a facility that is licensed or registered with the state which regularly provides care for persons less than twenty-four (24) hours a day.

**Duplex.** See *Dwelling, two-family*.

**Dwelling, one-family** means a detached building having accommodation for and occupied by not more than one (1) family.

**Dwelling, two-family** means a detached building having separate accommodations for and occupied by not more than two (2) families.

**Family** means any number of persons related by blood, adoption or marriage living together on the premises as a single housekeeping unit, or not more than two (2) persons unrelated by blood, adoption or marriage, or not more than three (3) exchange students or missionaries unrelated by blood, adoption or marriage, or any number of persons permitted or required under the Fair Housing Act of 1988; or more than two (2) persons but less than five (5) persons unrelated by blood, adoption or marriage who live together for a period of six (6) months or less.

**Floor area** means the total horizontal area of the several floors of a structure covered by a roof, exclusive of garages, stoops, carports and unenclosed porches; same as *living area*.

**Gross floor area** means the total horizontal area of the several floors of a structure covered by a roof, inclusive of garages, stoops, carports, unenclosed porches and other similar areas.

**Height of building** means the distance from average grade or curbs level to the highest point of the roof, but not including chimneys, towers, spires and the like.

**Hotels** means a building containing rooms intended or designed to be used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

**Incidental livestock** means livestock, not including pigs or goats, and poultry kept for the use of or the consumption by the occupants of the lot; provided however, that no corrals, stables, chicken houses or their yards shall be located closer than fifty (50) feet from any property line, and that they shall comply with the sanitary regulations; and that the number of livestock and poultry and their manner of keeping do not constitute a nuisance to the neighborhood.

**Living area** means gross horizontal areas of the several floors of a structure covered by a roof exclusive of garages, carports and unenclosed porches; same as *floor area*.

**Lot frontage** means the width of the lot at either front line or building line, whichever is greater.

**Lot line** means the boundaries of any lot as described on the subdivision plat.

**Motel** has the same definition as *Hotel*.

**Playfield or stadium** means an athletic facility or stadium owned and operated by a public or private agency for the general public including a baseball field, golf course, football field or stadium.

**Private yard** means an area of open space within a townhouse but which is unoccupied and unobstructed by any portion of a structure.

**Recreation center** means a building or complex of buildings housing community recreation facilities.

**Religious institution** means any place of worship for the carrying on of religious activities which consists of one (1) or more permanent buildings.

**Service shops** means bakeries, beauty shops, restaurants, laundry agency, washateria, shoe repair, gasoline service, etc., but excluding auto repair, bus terminals, machinery repair and welding.

**Setback** means a minimum yard dimension measured from the lot line to the building or other structure.

**Street right - of - way** means property either conveyed or dedicated to the public for use as a public street.

**Structure** means any object that is erected, constructed or installed by man that requires location in or on the ground or attachment to something having location on the ground having a definite pattern of organization, including buildings, the construction of buildings or accessory buildings, decks, decking or swimming pools, spas, hot tubs, saunas and other similar constructions or installations.

**Supervised living facility** means a facility that provides care, training, education, custody, treatment, or supervision for more than six (6) persons who are not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the twenty-four day, whether or not the facility is operated for profit or charges for the services it offers. This includes physical therapy centers, orphanages, youth homes, convalescent homes, etc. This does not include day care centers.

**Townhouse** means a dwelling unit structure having a separate wall with one (1) or more adjoining dwelling unit structures.

**Townhouse group** means for (4) to ten (10) contiguous townhouses connected by common walls.

**Townhouse project** means a townhouse development or plan which is submitted and approved by a single special permit.

## **Cross reference -- Definitions generally, § 1-2.**

### **Section 110-3. Administration generally.**

(a) *Enforcing officials.* The provisions of this chapter shall be administered and enforced by the building official of the city.

(b) *Right of entry.* The building official or any duty authorized person shall have the right to enter upon any premises necessary to carry out his duties in the enforcement of this chapter.

(c) *Stop orders.* Whenever any building work is being done contrary to provisions of this chapter, the building official may order the work stopped by notice in writing served on any person engaged in doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the building official to proceed with the work.

(d) *Furnishing utilities.* No person or public utility shall furnish water, gas, or electric energy to, nor make connection with, any building in the city which has been erected or

structurally altered, unless and until such person or public utility shall have received from the building official, city secretary or city council notification that such erection or structural alteration of such building complies with the ordinances of the city.

**Cross reference** -- Administration, ch. 2.

**State law reference** -- Enforcement of zoning ordinance, V.T.C.A., Local Government Code § 211.012.

**Sec. 110-4. Interim zoning of newly annexed territory.**

(a) No permit of the construction of a building shall be issued by the building official in a territory where an ordinance has passed on the first reading, annexing same to the city, other than a permit which will allow the construction of a building permitted to be constructed in what is defined as R-1 single-family residence as defined in section 110-68. An application for any other use other than that specified herein above shall be made to the building official and by him referred to the planning commission which acts as the zoning commission on the designation by the council for a consideration and recommendation to the city council. Whenever such recommendation is filed with the city council by the planning commission, such classification and such recommendation shall be advisory in its nature and the council shall be at liberty to affirm it or allow such construction as the facts in their opinion may justify.

(b) No existing building in a territory where an ordinance has been passed on first reading, annexing the same to the city, not at that time lawfully used for business purposes, shall be altered, remodeled or constructed for business purposes without a permit from the city council. This permit shall be obtained under the same procedure set out in subsection (a) of this section.

(c) The owner, lessees, or any other person owning, controlling, constructing, or directing the construction of any building or structure now in process of construction and which is incomplete at the time the land upon which it is situated is covered in an ordinance passed on first reading, annexing same to the city, before proceeding any further with the construction, alteration or completion thereof, shall apply to the building official for a permit authorizing further work on such building or structure and shall attach to such application for such permit plans and specifications relating to the construction of such building, or structure, which such application for building permit shall be promptly referred to the planning commission for consideration and the commission shall promptly thereafter file with the council its recommendation as to granting, modifying or rejecting such permit, the recommendation to be advisory, as stated in subsection (a) of this section. Such construction work shall be suspended until the permit provided for in this section has been issued, or until final zoning regulations have been adopted with permit for the construction, use and occupancy of the structure or building.

**Sec. 110-5. Permanent zoning of new territory.**

The permanent zoning of newly annexed territory shall be handled in the same manner as amendments to the zoning ordinance provided under section 110-6 and the subsections there under.

**Sec. 110-6. Amendments.**

(a) *Requirements for change.* Whenever the public necessity, convenience, general welfare or good zoning practice justifies such action, and after consideration by the city council, city planning commission, zoning board of adjustment or the joint consideration of the planning commission and the city council, or by a petition by one (1) or more of the owners, optionees or lessees of property within the area proposed to be changed, the zoning of any specific property in the city may be changed pursuant to the provisions of this section.

(b) *Initiation of change.* A proposed change of zone may be initiated by the city council, city planning commission, zoning board of adjustment, or by a petition by one (1) or more of the owners, optionees or lessees of property within the area proposed to be changed.

(c) *Changing ordinance; public hearing required.* At any regularly scheduled meeting of the planning commission, the owners, optionees or lessees of property who desire a change of zone may appear and request that a public hearing be called to consider their petition. The city council may at any time request that the planning commission hold a special hearing to consider zoning matters. Written notice of all public hearings before the planning commission on proposed changes in classification shall be sent to owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice to be given not less than ten (10) days before the date set for hearing to all such owners who have rendered their property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the city post office. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the city after final date for making the renditions which are included on the last approved city tax roll, notice to such owners shall be given by publication in the manner provided in subsection (d) of this section, the city council may hold a public hearing jointly with the planning commission, but after such joint hearing, the city council shall not take any action until it has received the final report of the planning commission. The city council shall, however, be able to call and hold a public hearing on its own to consider, approve or disapprove request for changes whenever a majority of the entire council deem it necessary or appropriate, and a report from the planning commission may also meet in its own capacity to hold public hearings, when required under this Code. The city planning commission may approve or disapprove any proposed change either in whole or part. If approved in whole or part, a recommendation in conformity with such approved change, shall be presented to the city council and an ordinance approving such a change in whole or in part may be adopted by the council after a public hearing. If such proposed change is disapproved by the city planning commission, a report of its decision shall be made to the city council. The city council may then review the decision of the planning commission. If the city council is in favor of the proposed change it may, after a public hearing, make such change in such ordinance by a majority of the entire membership of the city council. A joint public hearing by the planning commission and the city council shall satisfy this requirement.

(d) *Notice of public hearing by city council or by planning commission.* Notice of a public hearing by the city council or by the planning commission to consider proposed changes to this chapter shall be given by publication in the official paper of the city once a week for three (3) consecutive weeks. Such notice shall state the time, place and nature of such public hearing and such hearing shall not be held earlier than fifteen (15) days from the date of the first publication of such notice.

(e) *Passage of rezoning ordinance where written protest filed.* In case, however, of a written protest against such change, signed by the owners of twenty (20) percent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately

adjoining the same and extending two hundred (200) feet from, such amendment shall not become effective except by the favorable vote of three-fifths (3/5) of all members of the city council. The provisions of subsection (d) relative to public hearing and official notice shall apply equally to all changes or amendments.

(f) *Restrictions.* Any prior deed restrictions or other prior restrictions placed on any lot or land that is the subject of a zoning change request shall be disclosed to the city planning commission and to the city council by the land owner or optionee of land, when a change is requested by such owner or optionee. Any restriction on land or lots which was agreed to by the owner or optionee of property at the time the change of zone is approved by the city council shall be entered in the council minutes as a part of the permanent record. If the land is undeveloped, the restriction shall be placed in the plat at the time of plat approval by the planning commission. A violation of this subsection constitutes a misdemeanor and shall be punishable in accordance with section 110-12.

**State law reference --** Procedures for amending zoning ordinance, V.T.C.A., Local Government Code §§ 211.002, 211.006, 211.007.

**Sec. 110-7. Advertising costs.**

Persons applying for variances, conditional uses or zoning amendments must pay for the cost of advertising for such requests.

**Sec. 110-8. Nonconforming uses.**

Any use or structure existing at the time of enactment of this Zoning Ordinance or subsequent amendment of this chapter, but not in conformity with its provisions, may be continued with the following limitations. Any use or building which does not conform to this chapter may not be:

- (1) Changed to another conforming use;
- (2) Reestablished after discontinuance for six (6) months;
- (3) Extended except in conformity to this chapter; or

(4) Rebuilt after damage exceeding 51% of its fair sales value immediately prior to damage. Except for existing residential homes in the Commercial Zones on Second and Main St. they are able to rebuild.

**Sec. 110-9. Building permits.**

(a) *Required.* It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures or to store building material or construct entrances or parking lots, commence the moving, structural alterations, conversions, extensions, enlargements, alteration or repair (except repairs consisting only of painting or wallpapering, changing the fixtures and reroofing in residential zones), of any structure, including accessory structures, until the building official has issued a building permit for such work. Permits for conditional uses must be reviewed by the city council.

(b) *Application.* Application for a building permit shall be made to the building official on forms provided for that purpose

(c) *Requirements.* The building official shall require that every application for a building permit be accompanied by one (1) copy of a plan or plot drawn to scale and showing the following in sufficient detail to enable the building official to ascertain whether the proposed excavation, construction, reconstruction or conversion, moving or alteration is in conformance with this chapter:

(1) *Lot dimensions and corners-* The actual shape, proportion and dimensions of the lot to be built upon and satisfactory evidence that actual corners of the lot are known and are established on the ground.

(2) *Proposed structures-* The shape, size, and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already on the lot.

(3) *Use of structures-* The existing and intended use of all such buildings or other structures.

(4) *Existing yards-* The dimensions of all yards and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.

(5) *Building code-* Any other information as required by the building code.

(d) *Issuance-* If the proposed excavation, construction, moving or alteration as set forth in the application is in conformity with the provisions of this chapter the building official shall issue a building permit.

(e) *Disapproval-* If an application for a building permit is not approved, the building official shall state in writing on the application the reasons for such disapproval.

#### **Sec. 110-10. Special permits.**

The following land uses shall require approval of the planning commission instead of the building inspector because of special problems of traffic, parking safety or effect on surrounding property:

(1) Public buildings erected by city, county, state, school district, federal or any other governmental body.

(2) Airports, landing fields or airport facilities.

(3) Water reservoirs, pumping station, water towers or artesian wells.

(4) Radio or television transmitting or receiving towers taller than one hundred (100) feet, whether commercial or private.

(5) Trailer camps.

(6) Drive - in theaters.

(7) Large scale developments, including housing projects, and shopping centers, after submission to the planning commission of a site plan drawn to scale and showing the development in detail, including such essential requirements as parking facilities, location of buildings and uses to be permitted, and means of ingress and egress.

(8) Any of those uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas, noise, vibration and the like.

(9) Strip lighting.

**State law reference** -- Authority of local governments under Texas Clean Air Act, V.T.C.A., Health and Safety Code § 382.111 et seq.

### **Sec. 110-11. External lighting.**

(a) *Purpose:*

(1) The purpose of this section is to that outdoor lighting does not (a) interfere with the safety and welfare of the community and does not (b) interfere with or endanger the public in traveling to and from on streets, and does not (c) interfere with the reasonable use and enjoyment of property. It is also the purpose of this section to encourage outdoor electrically powered illuminating devices, lighting design practices, and systems which will conserve energy, while preserving the natural environment while increasing night time safety, utility, security, and productivity.

(b) *Outdoor illuminating devices:*

(1) Generally, artificial outdoor or extended illuminating devices shall be installed in accordance with, and when permitted by, the requirements of this section.

(c) *Outdoor illuminating devices, in nonresidential zones:*

(1) In all nonresidential zones the proposed lighting plan shall be reviewed by the city engineer and be included as part of the site plan. The owner shall stay in compliance with the lighting requirements of the site plan and shall not deviate from such requirements unless the owner receives approval from the planning commission.

(2) When a nonresidential zone is located adjacent to a residential zone, all external lighting shall be shielded to prohibit illumination at the boundary of the nonresidential zone and the residential zone in excess of one-fourth (0.25) foot-candles of average general light overflow or one-half (0.50) foot-candles at any point on such boundary. In all cases, exterior lighting shall be installed, hooded, regulated, and maintained by the owner or person in control thereof in such manner that the direct beam of any such light will not glare upon any lot, tract, or parcel of land other than that upon which it is situated.

(d) *Outdoor illuminated devices in other zones:*

(1) Lighting in R4, PUD, PURZ, or MH-1 zones shall also comply with this section.

(e) *Special permits:*

(1) Laser source light, strobe light and similar high intensity light sources for advertising or entertainment shall be prohibited in any zone, unless a permit is obtained from the building official for specific events and timeframes.

(2) Searchlights shall be prohibited in any zone, unless a permit is obtained from the building official for specific events and timeframes.

(f) *Phased in compliance.*

(1) For those tracts that have lighting that does not conform to the provisions of this section at the inception of the section, such lighting shall either be abated, removed or modified to conform with the code as determined by the city building official, within a period of two (2) years, from the effective date of this adoption of this section.

(2) After the enactment of this section, the city manager shall as soon as practicable, survey the city for lighting which does not conform to the requirements of this Code. Upon determination that lighting is nonconforming, the manager shall use reasonable efforts to so notify, in writing, the user or owner of the property on which the lighting is located of the following:

a. The nonconformity of the lighting; and

b. The need to conform within two (2) years, as well as the potential penalties for failure to do so. If the user or owner of the property cannot be located, the notice may be affixed in a conspicuous place to the premises with which the lighting is associated.

(g) *Exemptions:*

(1) Strip lighting approved by the planning commission under section 110-10 (9) shall be exempt from this section.

(2) Emergency lighting by police, fire, and rescue authorities is exempt from this section.

#### **Sec. 110-12 Certificate of occupancy.**

(a) *Required.* No change in the use or occupancy of land nor any change for use or occupancy in an existing building other than for single-family residence or for farming or gardening shall be made, nor shall any new building be occupied for any purpose other than for single-family residence use until a certificate of occupancy has been issued by the building and fire official.

(b) *Record kept by building official.* A record of all certificates of occupancy shall be kept on file in the office of the building official, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or a building affected by such certificate of occupancy. The certificate of occupancy or a copy thereof shall be prominently displayed in the building for which it is issued.

(c) *Nonconforming uses must apply for certificates.* A certificate of occupancy shall be required for all nonconforming uses of land or buildings existing on the effective date of the

Zoning Ordinance. Application for such certificate of occupancy for nonconforming uses shall be filed with the building official by the owner or lessee of the land or building occupied by such nonconforming use not later than 180 days after the effective date of the Zoning Ordinance.. It shall be the duty of the building official to issue a certificate of occupancy for nonconforming use. Failure to apply for such certificate of occupancy for nonconforming use shall be considered evidence that such nonconforming use did not exist on the effective date of the Zoning Ordinance.

**Sec. 110-13 Penalty.**

(a) Any person who shall violate any of the provisions of this chapter, or who shall build, alter, occupy or use any building or property in violation of any statement or plan submitted and approved under this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed two thousand dollars (\$2,000.00). Each day such violation shall be continued, or shall be allowed to continue to exist, shall constitute a separate offense.

(b) The owner of any building or property or part thereof where anything in violation of this chapter shall be placed or shall exist, and any architect, builder, contractor, agent, attorney, or other person employed in connection therewith and who has assisted in the commission of such violations, shall be guilty of a separate offense, and upon conviction thereof shall be fined in any sum not to exceed five hundred dollars (\$500.00).

(c) In addition to the remedies provided for in this section the enforcing officer may, in case any buildings or structures are erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, institute any appropriate action or proceedings to prevent such unlawful erection, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct or abate such violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal act, conduct of business or use in or about such premises.

**Secs. 110-14 -- 110-35. Reserved.**

**ARTICLE II - BOARD OF ADJUSTMENT \***

**Sec. 110-36. Powers, duties generally.**

The zoning board of adjustment of the city shall have all the powers and duties granted in section 10.13 of the home rule Charter of the city, as well as this article.

\* **State law references** --- Board of adjustment, V.T.C.A., Local Government Code § 211.008 et seq.; appeal to board of adjustment, V.T.C.A.; Local Government Code § 211.010.

**Sec. 110-37. Composition, compensation.**

The zoning board of adjustment shall consist of five (5) members who shall be residents of the city and who shall serve without compensation.

**Sec. 110-38. Appointment, terms; ex officio members.**

All members of the zoning board of adjustment shall be appointed by the city council. Two (2) such members to be appointed in each even - numbered years, and three (3) such members to be appointed in each odd numbered years. The appointments to be made each year within thirty (30) days following election. The term of office of each such member shall be two (2) years. In addition, a representative of the city manager or designated representative shall be an ex officio member of the board and shall serve the board in an advisory capacity, but shall have no voting rights, and shall attend meetings as requested.

**Sec. 110-39. Officers; rules of procedure.**

A board chairman and secretary shall be elected by the board annually, and the board shall establish its own rules and procedures which shall include the following:

(1) A quorum shall consist of three (3) voting members of the board, and an affirmative vote of three (3) members of the board shall be necessary to pass upon pending questions, or to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which the board may or is required to pass under this section, the chairman being entitled to vote upon all questions.

(2) Meetings shall be held as needed.

(3) A record of all proceedings shall be kept, which records shall be filed with the person performing the duties of the city secretary.

(4) Notice of meetings of the zoning board of adjustment shall be provided to persons living within two hundred (200) feet of the property that is the subject of a variance request or an appeal from a decision of an administrative official.

**Sec. 110-40. Appeals.**

Appeals to the board of adjustment shall be taken within a reasonable time as determined by the rules of the board, complete with a notice of appeal specifying the grounds thereof. The officer, or body, from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

**Sec. 110-41. Conduct of hearings.**

The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time or thirty (30) days, whichever is less. Upon the hearing, any party may appear in person or by agent or by attorney. An applicant for a variance or an appellant from an administrative decision shall have the burden of proving that his proposed use is reasonably necessary and that it will not conflict with the public interest or adversely affect uses of adjacent and neighboring property.

**Sec. 110-42. Special exceptions to chapter not under boards jurisdiction.**

In no case shall it be appropriate for the zoning board of adjustment to hear and make special exceptions to this chapter.

**Sec. 110-43. Scope of cases.**

The cases which are appropriate for the zoning board of adjustment to hear and decide are limited to the following:

(1) Appeals from a decision of an administrative official:

a. In the enforcement of this chapter or any ordinance adopted pursuant thereto.

b. In the refusal of building permits for any use that is permitted by this chapter for the zone where the proposed building would occur.

(2) Variances from the terms of this chapter as will not be contrary to the public interest where there is an unusual condition and a literal enforcement of the provisions of this chapter will result in unnecessary hardship to the applicant with regard to this chapter, including:

a. Building lines.

b. Side line setback.

c. Rear line setback.

d. Front line setback.

e. Lot size.

f. Width or length of lots.

g. Permitting driveways to intrude on easements.

h. Sign size or height.

i. Building slab heights.

j. Home occupations.

k. Cases in which this chapter does not permit any reasonable use of a tract or lot, not merely to accommodate the highest or best use of the property.

l. Abatement of, extension of, or addition to a nonconforming use.

**Sec. 110-44 -- 110-65. Reserved.**

## ARTICLE III - ZONE REGULATIONS \*

### **Sec. 110-66. Establishment of zones.**

In order to carry out the provisions of this chapter, the city is hereby divided into twenty (20) zones known as:

- (1) E-1 Single - family residence, estates.
- (2) R-1 Single - family residence.
- (3) R-2 Single - family residence.
- (4) R-2A Single - family residence.
- (5) R-2B Single – family residence.
- (6) R-3 Two - family residence.
- (7) R-4 Multifamily residence.
- (8) B-1 Neighborhood business.
- (9) B-1A Professional offices.
- (10) B-2 Central business.
- (11) B-3 Institutional Zone.
- (12) C-1 Commercial.
- (13) C-2 Commercial.
- (14) M-1 Light Industrial.
- (15) M-2 Heavy Industrial.
- (16) T-1 Single - family residence, townhouse.
- (17) PURZ Planned unit residential zone.

**State law reference** -- Zoning districts, V.T.C.A. Local Government Code § 211.005.

- (18) PUD Planned unit development.
- (19) MH-1 Mobile home park.
- (20) MH-2 Manufactured home.

**Sec. 110-67. E-1, single - family residence, estates.**

The following regulations shall be applicable to the E-1, single-family residence, estates, zoning district:

(1) *Description and purpose:* The most restrictive of residential zones, composed chiefly of individual homes on relatively large lots.

(2) *Permitted use:* One-family dwellings.

(3) *Maximum percentage of lot be used for building:* Twenty -five (25) percent.

(4) *Minimum living area for houses:* Two-thousand (2,000) square foot.

(5) *Maximum height of building:* Two and one-half (2 1/2) stories.

(6) *Minimum lot area:* One (1) acre.

(7) *Minimum frontage of lot:* Two hundred feet (200) feet.

(8) *Minimum lot depth:* One hundred fifty (150) feet.

(9) *Minimum lot setback:*

- a. From front, forty (40) feet.
- b. From side, twenty-five (25) feet.
- c. From rear, twenty (20) percent of depth.
- d. Side street, twenty-five (25) feet.

(10) *Permitted accessory uses:* Servant quarters, garden, tool and play houses, personal recreational facilities, country club and incidental livestock, customary home occupations.

(11) *Accessory buildings:*

- a. Height, twenty (20) feet.
- b. Side yard setback, twenty-five (25) feet minimum.
- c. Rear yard setback, thirty (30) feet.
- d. Front yard setback, sixty-five (65) feet.
- e. Maximum floor area, fifty (50) percent of main building.
- f. Maximum number, one (1) per acre.

(12) *Conditional uses:* Golf course, parks.

(13) *Off-street parking*: Minimum two-space garage (see section 110-162).

**Sec. 110-68. R-1, single - family residence.**

The following regulations shall be applicable to the R-1, single - family residence, zoning district:

(1) *Description and purpose*: A highly restricted zone composed chiefly of individual homes.

(2) *Permitted use*: One - family dwelling.

(3) *Maximum percentage of lot to be used for building*: Thirty (30) percent.

(4) *Minimum living area for houses*: One thousand four hundred (1,400) square feet.

(5) *Maximum height of building*: Two and one-half (2 1/2) stories or thirty-five (35) feet.

(6) *Minimum lot area*: Fifteen thousand (15,000) square foot.

(7) *Minimum frontage of lot*: One hundred (100) feet.

(8) *Minimum depth*: One hundred fifty (150) feet.

(9) *Minimum yard setback*:

a. Front, thirty (30) feet.

b. Side, ten (10) feet.

c. Rear, fifteen (15) feet.

d. Side street, fifteen (15) feet.

(10) *Permitted accessory use*: Garden, tool and playhouses, personal recreation facilities.

(11) *Accessory building*:

a. No storage, garden, tool or playhouse shall be used as a garage.

b. Garages should meet the setback requirements as required for the principal building.

c. No garage shall exit out the back of the lot.

d. Maximum height, twenty (20) feet.

e. Maximum setback:

1. Side, five (5) feet.
2. Rear, five (5) feet or interior line of easement.
3. Front, to front of house.

f. Maximum size for storage buildings, garden, tool and playhouses, four hundred (400) square feet.

(12) *Conditional uses*: Golf course, parks.

(13) *Off-street parking*: Minimum two-space garage (see section 110-162).

**Sec. 110-69. R-2, single-family residence.**

The following regulations shall be applicable to the R-2, single-family residence, zoning district:

(1) *Description and purpose*: A medium-density zone composed primarily of individual homes.

(2) *Permitted use*: One-family dwelling.

(3) *Maximum percentage of lot to be used for buildings*: Thirty-five (35) percent.

(4) *Minimum living area for houses*: One thousand two hundred (1,200) square feet.

(5) *Maximum height of buildings*: Two and one-half (2 1/2) stories or thirty-five (35) feet.

(6) *Minimum lot area*: Eight thousand four hundred (8,400) square feet.

(7) *Minimum frontage of lot*: Sixty (60) feet for all area platted prior to Zoning Ordinance, seventy (70) feet for all areas platted subsequent to Zoning Ordinance.

(8) *Minimum lot depth*: One hundred twenty (120) feet.

(9) *Minimum yard setback*:

- a. Front, twenty-five (25) feet.
- b. Side, fifteen (15) feet total for both sides, no less than five (5) feet on any one side.
- c. Rear, fifteen (15) feet.
- d. Side street, fifteen (15) feet.

(10) *Permitted accessory use:* Garden, tool, and playhouses, personal recreation facilities.

(11) *Accessory building:*

- a. No storage, garden, tool or playhouses shall be used as a garage.
- b. Garages shall meet all the setback requirements as required for the principal building.
- c. No garage shall exit out the back of the lot.
- d. Maximum height, twenty (20) feet.
- e. Maximum setback:
  1. Side, five (5) feet.
  2. Rear, five (5) feet.
  3. Front, to front of house Front to front of home (garage / carport can extend beyond front of home as long as meets set back requirements of the principal building)
- f. Maximum size for storage buildings, garden, tool, and playhouses, 8% of lot size. Limited to 3 buildings.

(12) *Conditional uses:* Parks.

(13) *Off-street parking:* Minimum of a one car carport or a one car garage. All carports and garages must meet all setback and building requirements, if applicable, however it is provided that a carport and / or garage may extend beyond the front of the home, as long as setback and building requirements are met.

(14) Any home currently located in this zone which sustains a total loss or demolition of the structure, may be rebuilt by the owner of the property without meeting zoning requirements if the home is re-constructed using the same footprint. However, if the footprint of the home is changed in any way, the new structure would be required to meet the R2 zoning requirements set out in this ordinance.

**Sec. 110-69.1. R-2A, single-family residence:**

The following regulations shall be applicable to the R-2A, single-family residence zoning district:

(1) *Description and purpose:* A medium-density zone composed primarily of individual homes.

(2) *Permitted use:* One-family dwelling.

- (3) *Maximum percentage of lot to be used for building:* Thirty- five (45) percent.
- (4) *Minimum living area for houses:* One thousand (1,000) square feet.
- (5) *Maximum height of buildings:* Two and one-half (2 1/2) stories or thirty-five (35) feet.
- (6) *Minimum lot area:* Seven thousand two hundred (7,200) square feet.
- (7) *Minimum frontage of lot:* Sixty (60) feet.
- (8) *Minimum lot depth:* One hundred twenty (120) feet.
- (9) *Minimum yard setback:*
- a. Front, twenty-five (25) feet.
  - b. Side, five (5) feet for each side.
  - c. Rear, fifteen (15) feet.
  - d. Side street, fifteen (15) feet.
- (10) *Permitted accessory use:* Garden, tool, and playhouses, personal recreation facilities.
- (11) *Accessory building:*
- a. No storage, garden, tool or playhouse shall be used as a garage.
  - b. Garages shall meet all the setback requirements as required for the principal building.
  - c. No garage shall exit out the back of the lot.
  - d. Maximum height, twenty (20) feet.
  - e. Maximum setback:
    1. Side, five (5) feet.
    2. Rear, five (5) feet or interior line of easement.
    3. Front, to front of house.
  - f. Maximum size for storage buildings, garden, tool, and playhouses, four hundred (400) square feet.
- (12) *Conditional uses:* Parks.

(13) *Off-street parking*: Either a two-space garage or a carport type garage (See section 110-162).

**Sec. 110-69.2. R-2B, single-family residence: (Lots platted prior to the date of the Ordinance or replatts of those lots platted prior to the Ordinance)**

The following regulations shall be applicable to the R-2B, single-family residence zoning district:

(1) *Description and purpose*: A medium-density zone composed primarily of individual homes.

(2) *Permitted use*: One-family dwelling.

(3) *Maximum percentage of lot to be used for building*: Forty- five (45) percent.

(4) *Minimum living area for houses*: Eight Hundred (800) square feet.

(5) *Maximum height of buildings*: Two and one-half (2 1/2) stories or thirty-five (35) feet.

(6) *Minimum lot area*: Five thousand (5,000) square feet.

(7) *Minimum frontage of lot*: Fifty (50) feet.

(8) *Minimum lot depth*: Eighty (80) feet.

(9) *Minimum yard setback*:

a. Front, fifteen (15) feet.

b. Side, five (5) feet for each side.

c. Rear, fifteen (15) feet.

d. Side street, fifteen (15) feet. It is provided however, that a side street setback of ten (10) feet will be permitted provided the lot is not located on a major street and the contemplated structure is at least sixty (60) feet from the centerline of the street located in front of the property.

(10) *Permitted accessory use*: Garden, tool, and playhouses, personal recreation facilities.

(11) *Accessory building*:

a. No storage, garden, tool or playhouse shall be used as a garage.

b. Garages/ carports shall meet all the setback requirements as required for the principal building.

c. No garage / carport shall exit out the back of the lot.

d. Maximum height, twenty (20) feet.

e. Maximum setback:

1. Side, five (5) feet.

2. Rear, five (5) feet or interior line of easement.

3. Front, to front of house Front to front of home (garage / carport can extend beyond front of home as long as meets set back requirements of the principal building)

f. Maximum size for storage buildings, garden, tool, and playhouses, 8% of lot size. Limited to 3 buildings.

(12) *Conditional uses*: Parks.

13) *Off-street parking*: Minimum of a one car carport or a one car garage. All carports and garages must meet all setback and building requirements, if applicable, however it is provided that a carport and / or garage may extend beyond the front of the home, as long as setback and building requirements are met.

(14) Any home currently located in this zone which sustains a total loss or demolition of the structure, may be rebuilt by the owner of the property without meeting zoning requirements if the home is re-constructed using the same footprint. However, if the footprint of the home is changed in any way, the new structure would be required to meet the R2 -B zoning requirements set out in this ordinance.

### **Sec. 110-70. R-3, two-family residence.**

The following regulations shall be applicable to the R-3, two-family residence, zoning district:

(1) *Description and purpose*: A two-family dwelling zone providing most of the desirable residential characteristics attributed to single-family districts. In addition to large areas appropriate for such use it has useful application as a buffer zone bordering neighborhood shopping centers.

(2) *Permitted use*: One-family dwelling, duplexes.

(3) *Maximum percentage of lot to be used for building*: Forty-five (45) percent.

(4) *Minimum living area per family*: Nine hundred (900) square feet.

(5) *Maximum height of building*: Two and one-half (2 1/2) stories or thirty-five (35) feet.

(6) *Minimum lot area*: Eight thousand five hundred (8,500) square feet.

(7) *Minimum frontage of lot*: One hundred (100) feet.

(8) *Minimum depth*: Eighty-five (85) feet.

(9) *Minimum yard setback*:

- a. Front, twenty-five (25) feet.
- b. Sides, ten (10) feet.
- c. Rear, fifteen (15) percent of depth.
- d. Side street, fifteen (15) feet.

(10) *Permitted accessory use*: Garden, tool and playhouses, personal recreation facilities.

(11) *Accessory building*:

- a. No storage, garden, tool or playhouse shall be used as a garage.
- b. Garages shall meet all the setback requirements as required for the principal building.
- c. No garage shall exit out the back of the lot.
- d. Maximum height, twenty (20) feet.
- e. Maximum setback:
  1. Side, five (5) feet.
  2. Rear, five (5) feet or interior line of easement.
  3. Front, to front of house.
- f. Maximum size for storage buildings, garden, tool and playhouses, and two hundred (200) square feet.

(12) *Conditional uses*: Parks.

(13) *Off-street parking*: Minimum four (4) covered spaces (see section 110-162).

**Sec. 110.-71. R-4, multifamily residence.**

The following regulations shall be applicable to the R-4, multifamily residence, zoning district:

(1) *Description and purpose*: A medium density zone for garden apartments, group housing and courts.

(2) *Permitted uses*: One-family dwelling, apartment houses, duplexes, condominiums.

(3) *Maximum percentage of lot to be used for building*: Fifty (50) percent.

(4) *Minimum living area per family*: Four hundred fifty (450) square feet.

(5) *Maximum height of building*: Two and one-half (2 1/2) stories or thirty-five (35) feet.

(6) *Maximum density*: Twenty (20) units per acre

(7) *Minimum frontage of site*: One hundred (100) feet.

(8) *Minimum site depth*: One hundred twenty (120) feet.

(9) *Minimum site area*: One (1) acre.

(10) *Minimum yard setback*:

a. Front, twenty-five (25) feet.

b. Side, twenty-five (25) feet.

c. Rear, twenty-five (25) feet.

d. Side street, fifteen (15) feet.

(11) *Permitted accessory uses*: Garden, tool, and playhouses, personal recreation facilities, boarding houses, day nurseries, nursing homes, professional offices.

(12) *Accessory buildings*:

a. No storage, garden, tool, or playhouse shall be used as a garage.

b. Garages shall meet all of the setback requirements as required for principal building.

c. No garage shall exit out the back of the lot.

d. Maximum height, twenty (20) feet.

e. Maximum setback:

1. Side, five (5) feet.

2. Rear, five (5) feet.

3. Front, to front of house.

f. Maximum size for storage building, two hundred (200) square feet.

(13) *Conditional uses*: Hospitals, clinics, membership clubs, homes for the aged, homes for orphans, funeral homes, fraternity/sorority homes, nursing homes, supervised living facilities, cemeteries.

(14) *Off-street parking*: See section 110-162.

(15) *Off-street loading*: None.

(16) *Other provisions*: All signs shall be shielded and source for steady light. No signs larger than one hundred (100) square feet, nor exceeding 4:1 height to width or width to height ratio.

**Sec. 110-72. B-1, neighborhood business.**

The following regulations shall be applicable to the B-1, neighborhood business zoning district after effective date of Zoning Ordinance.

(1) *Description and purpose*: A neighborhood shopping zone wherein retail business or selected service establishments supply commodities or services to meet the daily needs of the surrounding neighborhood, in which they are located. Uses which are not necessary to serve the neighborhood such as industrial/ business supply or service facilities such as theaters, motels or warehouse style retail stores and automobile dealerships are not permitted in the zone unless built prior to January 1, 2000. B-1 neighborhood businesses that would be harmful to, or would adversely impact, single-family residential areas or facilities which are either hazardous, noxious or offensive to an ordinary reasonable person because of congested vehicular traffic, generation or emission of noise, vibration, smoke, dust, particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emission, are not permitted in this zone unless built prior to January 1, 2000. Those businesses and properties built prior to January 1, 2000, may be remodeled or rebuilt under the terms of the applicable building code or ordinance in effect on January 1, 2000. Potentially harmful or objectionable characteristics of certain development may be mitigated by the inclusion of additional design or architectural features. To provide additional basis for exercising judgment in the determination of potential harm or adverse impact, permitted and conditional uses are listed below as well as use requirements and design limitations that serve to prevent potential harm.

(2) *Permitted uses*: Office and office buildings, studios, retail shops, service shops, drive-in eating places, groceries, day care facilities, auto repair, membership clubs, nursing homes, homes for orphans, home for aged.

(3) *Maximum percentage of lot to be used by building*: One hundred (100) percent.

(4) *Minimum floor area*: None required.

(5) *Maximum height of building*: Two and one-half (2 1/2) stories or thirty-five (35) feet.

(6) *Minimum lot area*: Two thousand (2,000) square feet.

(7) *Minimum frontage of lot*: Twenty (20) feet.

(8) *Minimum depth of lot*: One hundred (100) feet.

(9) *Minimum yard setback*: None required.

(10) *Permitted accessory use*: None allowed.

- (11) *Accessory building*: None allowed.
- (12) *Conditional uses*: Supervised living facilities, churches.
- (13) *Off-street parking*: See section 110-162.
- (14) *Off-street loading*: See section 110-163.
- (15) *Other provisions*: All signs shall be shielded and sources of light steady. All signs must be physically attached to the building and on property owned or leased.

(16) The following provisions shall apply when B-1 neighborhood businesses have business lot lines within sixty (60) feet of single-family residential lot lines.

a. *Permitted uses*:

Professional offices.

Retail stores.

Convenience stores (not open more than nineteen (19) hours per day).

Service shops ( i.e. hair salons, shoe repair, banking, dry cleaners and personal care facilities).

Day care centers.

Restaurants excluding those with drive-in or drive-through facilities.

Health clubs.

b. *Maximum percentage of lot to be used by building*: That percentage allowed after taking into consideration the limits dictated by the provisions of (1) (1) 4 below.

c. *Minimum floor plan*: None required.

d. *Maximum height of building*: Two and one-half (2 1/2) stories or thirty-five (35) feet.

e. *Minimum lot area*: Two thousand (2,000) square feet.

f. *Minimum frontage lot*: Twenty (20) feet.

g. *Minimum depth of lot*: One hundred (100) feet.

h. Minimum yard setback.

i. *Permitted accessory use*: None allowed.

j. *Accessory building*: None allowed.

k. *Conditional uses:*

Gasoline services not including car wash services.

Automotive repair conducted completely within an enclosed facility.

Supervised living facilities.

Convenience stores (twenty-four (24) hours per day),

Vehicular drive-in or drive-through restaurants.

(1) Design limitations applicable to B-1 businesses with business lot lines within sixty (60) feet of single- family residential area lot lines:

1. All garbage storage shall be screened and located no closer than ten (10) feet from a single-family residential zone and may not be located between the front of the structure and any street right of way.

2. Unsightly features (loading docks, mechanical equipment, etc.) shall be screened through the use of either masonry walls, fencing, berms with adequate trees or shrubs, or chain link fencing with adequate trees or shrubs, all being thick enough to hide the unsightly features from neighboring residential areas.

3. Hours of operation shall be limited to 5:00 a.m. to 12:00 midnight unless planning commission review determines alternative hours will not adversely impact the neighborhood residents. Outside normal hours of operations, all external lighting except that necessary for security purposes shall be secured.

4. No structure shall be located nearer to any single-family residential property than a distance equal to one and one-half (1 1/2) times the height of the exterior walls of such building or structure. But those business built prior to the effective date of the Zoning Ordinance are exempted from this requirement.

5. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other annoyance at nearby residential lot lines shall be permitted. Mechanical and electrical equipment shall be designed and installed to minimize noise impact on surrounding residential property. Additionally, no external amplified sound for other than safety or security purposes is allowed.

6. Uses that typically and inherently produce significant noise such as tire shops, muffler shops, and car wash facilities are not allowed unless design features are present to eliminate noise that would intrude on the neighborhood.

7. All exterior signage, both temporary and permanent, shall meet the conducive color standards of section 110-72 (17) and is subject to a design review and placement study by the planning commission. All signage detached from building / structures shall meet the requirements of a monument sign as defined in section 78-10 of this Code.

8. All storage, both temporary and permanent, of materials, pending customer work (i.e.; vehicles), freight / deliveries, or products intended for sale / lease shall be within the building or structure.

(17) The following performance standards shall be used for the purpose of evaluating the development proposals in the neighborhood business zone if the proposed B-1 neighborhood businesses lot line is within sixty (60) feet of single-family residential area lot lines:

a. New development shall be designed to be compatible with neighboring residential areas. This shall require that materials used on the outside of the buildings be of earth tone colors or colors conducive to colors in the surrounding residential area.

1. Colors or awnings should be muted, natural or earth toned and related to major materials of the building.

2. Window frames may be of an accent color to complement the major wall material.

3. Paint shall be flat or semi - gloss.

4. Metal roofs grey, natural green, rust or brown.

5. Metal canopies dark anodized or black or to match roof.

This shall involve the preservation of the character and integrity of residential areas and the maintaining of an appropriate visual and functional interrelationship between residential and commercial uses. Potential intrusive design elements such as traffic circulation and light glare shall be designed to avoid interference with the residential environment.

b. The height, scale, mass and bulk of buildings shall not be overbearing in relation to neighborhood residential structures. Height, scale, mass and bulk shall also be a function of their proximity to residential structures, with buildings in close proximity made to adhere to a similar scale of development. Potential view impediments shall also be considered.

c. Architectural styles and features shall be compatible with and complementary to neighborhood residential structures to the extent commercial and residential structures share a visual relationship.

**Sec. 110-73. B-1A, professional offices.**

The following regulations shall be applicable to the B-1A, professional offices, zoning district:

(1) *Purpose and description:* A zone comprised of professional offices.

(2) *Permitted uses:* Professional offices and office buildings, studios, clinics. No retail sales.

(3) *Maximum percentage of lot to be used by building:* One hundred (100) percent.

(4) *Minimum floor area:* None required.

(5) *Maximum height of building*: Two and one-half (2 1/2) stories or thirty-five (35) feet.

(6) *Minimum lot area*: Two thousand (2,000) square foot.

(7) *Minimum frontage of lot*: One hundred (100) feet.

(8) *Minimum depth of lot*: One hundred (100) feet.

(9) *Minimum yard setback*: None required.

(10) *Permitted accessory use*: None allowed.

(11) *Accessory building*: None allowed.

(12) *Conditional uses*: Hospital, churches.

(13) *Off-street parking*: See section 110-162.

(14) *Off-street loading*: See section 110-163.

(15) *Other provisions*:

a. All signs shall be shielded and source of light steady. All signs must be physically attached to the building and on property owned or leased.

b. See section 110-178 for additional rules on design limitations and performance standards when a B-1A zone lot line is within sixty (60) feet of single-family residential area lot lines.

**Sec. 110-74. B-2, central business.**

The following regulations shall be applicable to the B-2, central business, zoning district:

(1) *Description and purpose*: The zone is the principal area and permits most types of general commercial enterprise. Manufacturing and nuisance industries are excluded.

(2) *Permitted uses*: Office and office buildings, studios, retail shops, service shops, drive-in eating places, groceries, day care center, auto repair shops, membership clubs, nursing homes, homes for orphans, homes for aged, newspaper, auto dealers, hotels, theatres, motels, banks and financial institutions.

(3) *Maximum percentage of lot to be used by building*: One hundred (100) percent.

(4) *Minimum floor area*: None required.

(5) *Maximum height*: Four (4) stories, fifty (50) feet or as approved.

(6) *Minimum lot area*: Two thousand (2,000) square feet.

(7) *Minimum frontage of lot*: Thirty (30) feet.

(8) *Minimum depth of lot*: One hundred (100) feet.

(9) *Minimum yard setback*: None required unless abutting residential zone of E-1, R-1, R-2, R-3, T-1, then there shall be a minimum setback of twenty (20) feet on the rear and on the side, for all buildings up to fifty (50) feet in height, where the property abuts such zones. If the building is greater than fifty (50) feet in height, the setback on the rear and side shall be twenty (20) feet plus twice the height of that portion of the building that is in excess of the first fifty (50) feet. Portions of drainage ditches on the property or between properties shall be credited to the landowner for the purposes of establishing the setback.

(10) *Permitted accessory use*: None allowed.

(11) *Accessory building*: None allowed.

(12) *Conditional uses*: Bowling alley and other recreational facilities, clinics and supervised living facilities and churches. No funeral homes.

(13) *Off-street parking*: See section 110-162.

(14) *Off-street loading*: See section 110-163.

(15) *Other provisions*:

a. All signs shall be shielded and source of light steady. All signs must be physically attached to the building and on property owned or leased.

b. See section 110-178 for additional rules on design limitations and performance standards when a B-2 zone lot line is within sixty (60) feet of single-family residential area lot lines.

**Sec. 110-75. B-3, institutional zone.**

The following regulations shall be applicable to the B-3, institutional zone, zoning district:

(1) *Description and purpose*: A zone for cultural, educational and other institutional uses.

(2) *Permitted uses*: Church, religious institution, public, private or parochial schools.

(3) *Minimum floor area*: None required.

(4) *Maximum height*: Four (4) stories, fifty (50) feet or as approved. The distance from average grade or curb level to the highest point of the roof, but not including chimneys, towers, spires and the like.

(5) *Minimum lot area*: One (1) acre.

(6) *Minimum frontage of lot*: Two hundred (200) feet.

(7) *Minimum yard setback*: None required unless abutting residential zones of E-1, R-1, R-2, R-3, or T-1, then there shall be a minimum setback of twenty (20) feet on the rear and on the

side, for all buildings up to fifty (50) feet in height, where the property abuts such zones. If the building is greater than fifty (50) feet in height, the setback on the rear side shall be twenty (20) feet, plus twice the height of that portion of the building that is in excess of the first fifty (50) feet. Portions of drainage ditches on the property or between properties shall be credited to the landowner for the purposes of establishing the setback. Front setback is thirty (30) feet.

(8) *Permitted accessory use*: Parking garage, day care facility.

(9) *Accessory building*: Any customary, incidental to business.

(10) *Conditional uses*: Playfield or stadium, recreation center.

(11) *Off-street parking*:

a. No parking facility shall occupy any portion of a required setback within ten (10) feet of a public street or within ten (10) feet of a lot line adjacent to a residential zone (E-1, R or T-1) or more restrictive district.

b. The parking requirements of section 110-162 shall apply.

(12) *Special conditions*:

a. Screening devices will be required.

(13) *Off-street loading*: See section 110-163.

**Sec. 110-76. C-1, commercial.**

The following regulations shall be applicable to the C-1, commercial, zoning district:

(1) *Description and purpose*: This is a zone designed to contain mostly warehousing, distribution types of activity.

(2) *Permitted uses*: Office and office buildings, studios, retail shops, service shops, drive-in eating places, groceries, day care center, auto repair shops, membership clubs, nursing homes, homes for orphans, homes for aged, newspaper, auto dealers, hotels, theatres, motels, banks, and financial institutions, lumberyards, and brickyards, warehouses, wholesale business, veterinary clinic, commercial laundries, beverage manufacturing.

(3) *Maximum percentage of lot to be used by building*: One hundred (100) percent.

(4) *Minimum floor area*: None required.

(5) *Maximum height of building*: Four (4) stories, fifty (50) feet or as approved.

(6) *Minimum lot area*: Three thousand (3,000) square feet.

(7) *Minimum frontage of lot*: Thirty (30) feet.

(8) *Minimum depth of lot*: One hundred (100) feet.

(9) *Minimum yard setbacks*: None required unless abutting residential zone of E-1, R-1, R-2a, R-3, or T-1, then there shall be a minimum setback of twenty (20) feet on the rear and on the side, for all buildings up to fifty (50) feet in height, where the property abuts such zones. If the building is greater than fifty (50) feet in height, the setback on the rear and side shall be twenty (20) feet, plus twice the height of that portion of the building that is in excess of the first fifty (50) feet. Portions of drainage ditches on the property or between properties shall be credited to the landowner for the purposes of establishing the setback.

(10) *Permitted accessory uses*: None allowed.

(11) *Accessory building*: Any customary, incidental to business.

(12) *Conditional uses*: Supervised living facility and churches.

(13) *Off-street parking*: See section 110-162.

(14) *Off-street loading*: See section 110-163.

(15) *Other provisions*: See section 110-178 for additional rules on design limitations and performance standards when a C-1 zone lot line is within sixty (60) feet of single-family residential area lot lines.

#### **Sec. 110-77. C-2, commercial.**

The following regulations shall be applicable to the C-2, commercial, zoning district:

(1) *Description and purpose*: This zone is designed to contain high-rise buildings.

(2) *Permitted uses*: Hotels, motels, office buildings, hospitals, banks, and financial institutions.

(3) *Maximum percentage of lot to be used by building*: One hundred (100) percent.

(4) *Minimum floor area*: None required.

(5) *Maximum height of building*: Four (4) stories, fifty (50) feet or as approved.

(6) *Minimum lot area*: Ten thousand (10,000) square feet.

(7) *Minimum frontage of lot*: Thirty (30) feet.

(8) *Minimum depth of lot*: One hundred (100) feet.

(9) *Minimum yard setback*: None required unless abutting residential zone of E-1, R-1, R-2, R-3, or T-1, then there shall be a minimum setback of twenty (20) feet on the rear and on the side, for all buildings up to fifty (50) feet in height, where the property abuts such zones. If the building is greater than fifty (50) feet in height the setback on the rear and side shall be twenty (20) feet plus twice the height of that portion of the building that is in excess of the first fifty (50) feet. Portions of drainage ditches on the property or between properties shall be credited to the landowner for the purposes of establishing the setback.

(10) *Permitted accessory uses*: None allowed.

(11) *Accessory building*: Any customary, incidental to business.

(12) *Conditional uses*: None allowed.

(13) *Off-street parking*: See section 110-162.

(14) *Off-street loading*: See section 110-163.

(15) *Other provisions*: See section 110-178 for additional rules on design limitations and performance standards when a C-2 zone lot line is within sixty (60) feet of single-family residential area lot lines.

### **Sec. 110-78. M-1, light industrial.**

The following regulations shall be applicable to the M-1, light industrial, zoning district:

(1) *Description and purpose*: This zone permits most compounding, assembling or treatment of articles or materials with the exception of heavy manufacturing and the processing of raw materials.

(2) *Permitted uses*: Machine shops, carpenter shops, ice manufacturing, light metal processing, meat and food processing, paper fabricating, plastic manufacturing, clay products manufacturing, trucking yard, dairy product manufacturing, feed and fuel yards and miniwarehouses.

(3) *Maximum percentage of lot to be used by building*: One hundred (100) percent.

(4) *Minimum floor area*: None required.

(5) *Maximum height*: Four (4) stories, fifty (50) feet or as approved.

(6) *Minimum lot area*: Eight thousand four hundred (8,400) square feet.

(7) *Minimum frontage of lot*: Sixty (60) feet.

(8) *Minimum depth of lot*: One hundred (100) feet.

(9) *Minimum yard setback*: None required unless abutting residential zone of E-1, R-1, R-2, R-3, or T-1, then there shall be a minimum setback of twenty (20) feet on the rear and on the side, for all buildings of to fifty (50) feet in height, where the property abuts such zones. If the building is greater than fifty (50) feet in height the setback on the rear and side shall be twenty (20) feet plus twice the height of that portion of the building that is in excess of the first fifty (50) feet. Portions of drainage ditches on the property or between properties shall be credited to the landowner for the purposes of establishing the setback.

(10) *Permitted accessory use*: No restrictions.

(11) *Accessory building*: No restrictions.

(12) *Conditional use*: Churches.

(13) *Off-street parking*: See section 110-162.

(14) *Off-street loading*: See section 110-163.

(15) *Other provisions*: See section 110-178 for additional rules on design limitations and performance standards when an M-1 zone lot line is within sixty (60) feet of single-family residential are lot lines.

**Sec. 110-79. M-2, heavy industrial.**

The following regulations shall be applicable to the M-2, heavy industrial, zoning district:

(1) *Description and purpose*: This zone is designed to contain those industries which process raw material into useful goods.

(2) *Permitted uses*: Machine shop, carpenter shops, ice manufacturing, light metal processing, meat and food processing, paper fabricating, plastic manufacturing, feed and fuel yards and miniwarehouses. All other manufacturing must obtain special permits.

(3) *Maximum percentage of lot to be used for building*: One hundred (100) percent.

(4) *Minimum floor area*: None required.

(5) *Maximum height*: Four (4) stories, fifty (50) feet or as approved.

(6) *Minimum lot area*: Fifteen thousand (15,000) square foot.

(7) *Minimum frontage of lot*: One hundred fifty (150) feet.

(8) *Minimum depth of lot*: One hundred (100) feet.

(9) *Minimum yard setback*: None required unless abutting residential zone of E-1, R-1, R-2, R-3 or T-1, then there shall be a minimum setback of twenty (20) feet on the rear and on the side, for all buildings up to fifty (50) feet in height, where the property abuts such zones. If the building is greater than fifty (50) feet in height the setback on the rear and side shall be twenty (20) feet plus twice the height of that portion of the building that is in excess of the first fifty (50) feet. Portions of drainage ditches on the property or between properties shall be credited to the land owner for the purposes of establishing the setback.

(10) *Permitted accessory uses*: No restriction except no dwellings.

(11) *Accessory building*: No restrictions.

(12) *Conditional use*: Churches.

(13) *Off-street parking*: See section 110-162.

(14) *Off-street loading*: See section 110-163.

(15) Other provisions: See section 110-178 for additional rules on design limitations and performance standards when a M-2 zone lot line is within sixty (60) feet of single-family residential area lot lines.

**Sec. 110-80. T-1, single-family residence, townhouse.**

In a T-1, single-family residence, townhouse, zone designated and approved according to the provisions of this chapter, within the city or within the extraterritorial jurisdiction of the city of subdivision purposes, a townhouse or townhouse group may be erected or constructed, provided it meets the following requirements:

(1) *Description and purpose*: A highly restricted high density residential zone composed of single-family townhouse dwellings.

(2) *Permitted uses*: Single-family dwelling.

(3) *Maximum percent of project to be used for covered buildings*: Fifty (50) percent, including common area. Those structures constituting "covered buildings" under this provision include, but are not limited to, buildings and required covered parking spaces.

(4) *Minimum living area per family*: Eight hundred (800) square feet.

(5) *Lots*: Each townhouse is located on an individual lot.

(6) *Units and area*:

a. There shall be at least four (4) connected units in each townhouse project.

b. Each townhouse group shall have not less than four (4) adjoining townhouse units.

(7) *Maximum height of building*: Thirty-five (35) feet or two and one-half (2 1/2) stories.

(8) *Minimum area per family*: Three thousand five hundred (3,500) square feet, including common area.

(9) *Minimum lot area*: Two thousand (2,000) square feet.

(10) *Minimum frontage of lot*: Twenty (20) feet.

(11) *Minimum lot depth*: One hundred (100) feet.

(12) *Minimum yard setback*:

a. Each townhouse or townhouse group shall be set back from the front street five (5) feet for the building line.

b. Each townhouse or townhouse group shall be set back from a side street twenty-five (25) feet for the building line.

c. Each townhouse or townhouse group shall be set back from the rear lot line at least ten (10) feet for the building line. Garages or carports having direct access to a rear alley or common driveway shall set back from the rear lot line at least ten (10) feet; provided, however, the planning commission may reduce or waive the required rear setback requirements where a common area of at least twenty-five (25) feet in width is provided and there is provision for pedestrian and vehicular safety, utility service and privacy.

(13) *Permitted accessory use*: Mechanical building, maintenance and tool shop and recreational building, customary home occupations.

(14) *Accessory building*: Shall be the same design and appearance as townhouses and subject to the same maximum height restrictions.

(15) *Conditional uses*: There are no conditional uses allowed.

(16) *Yards*:

a. Each lot shall contain a private yard with not less than three hundred (300) square feet of area. Not more than fifty (50) percent of the required private yard may be occupied by a driveway, but parking areas shall not be included in the computation of the required private yard. A wall or solid fence, not less than five (5) feet in height, shall be required on side lot lines where the required private yard adjoins such lot lines. A private yard may be a patio cover or roof which does not cover more than twenty-five (25) percent of the private yard.

b. Within a townhouse project there shall be at least fifteen (15) feet of separation or combined side yard between each townhouse group.

c. No side yard shall be required between connected townhouses or units.

(17) *Parking spaces and driveways*:

a. *Off-street parking*: Minimum two-space garage.

1. Off-street parking spaces shall be provided for each townhouse in the number specified in the section 110-162.

2. No parking shall be provided in the front five (5) feet of a townhouse lot or common area (unless the rear of the lot abuts Loop Road) nor in the twenty-five (25) feet adjacent to a side street.

b. *Driveways*:

1. No driveway shall be located in the front yard of a townhouse, unless the rear of the lot abuts Loop Road.

2. One-way driveways shall be at least nine (9) feet in width, and two-way driveways shall be at least eighteen (18) feet in width.

(18) *Off-street loading*: None.

**Sec. 110-81. PUD, planned unit development.**

See article IV for regulations applicable to the PUD, planned unit development, zoning district.

**Sec. 110-82. PURZ, planned unit residential zone.**

See article V for regulations applicable to the PURZ, planned unit residential, zoning district.

**Sec. 110-83. MH-1, mobile home park.**

See chapter 58 for regulations applicable to the MH-1 mobile home park zoning district. In addition to chapter 58, the following additional regulations shall be applicable to the MH-1 mobile home park zoning district:

(1) *Description and purpose:* A medium -density zone composed primarily of individual mobile or manufactured homes.

(2) *Permitted use:* One family mobile home dwelling, to include HUD code manufactured homes.

**Cross reference--** Mobile home park zone, chapter 151.

**Sec. 110-84. MH-2, manufactured homes.**

Manufactured homes shall have the same definition found in Vernon's Ann. Civ. Stat. arts. 5221 et seq. The following regulations shall be applicable to the MH-2 manufactured homes zoning district:

(1) *Description and purpose:* A medium-density zone composed primarily of individual manufactured homes.

(2) *Permitted use:* One-family manufactured home dwelling.

(3) *Compliance with Code:* Manufactured homes in MH-2 zone shall be subject to the terms, rules and regulations found in chapter 58 of this Code, specifically sections 58-65 et seq.

**Sec. 110-85. Exceptions.**

The following are exceptions to the regulations set out in this article:

(1) Ornamental features and mechanical appurtenance may exceed height limitations, but in no case exceed one hundred forty (140) feet.

(2) Unattached garages may be placed within ten (10) feet of rear lot line if an alley is used between lots.

(3) [Corner lots.]

a. Side yards for corner lots, where front and side setbacks have not been established by plat (approved by the planning commission), shall have a minimum front yard setback from the lot line required for that zone from both sides.

b. For corner lots which have established front and side setbacks by plat (approved by the planning commission), those platted setbacks will control which is the front of the home and which is the side of the home (the front setback will be the larger of the two).

(4) If, for any reason of solar orientation, an entire area or any entire block is developed cooperatively or as a unit, standard yard regulations may be waived to carry out such purpose, providing that the zoning board of adjustment after public notice and hearing is of the opinion that such a development is not injurious to adjacent property.

(5) Lots with schools and/or churches shall have twice the side setback requirements of residence when in residential zones.

(6) Libraries and museums may be permitted in residential zones and must meet restrictions for churches.

(7) This section shall not apply to the location, construction, maintenance or use of central office buildings or corporations, firms or individuals engaged in the furnishing of telephone service to the public, or to the location, construction, maintenance or any use of any equipment in connection with such buildings or a part of such telephone system, necessary in the furnishing of telephone service to the public.

**Sec. 110-86 -- 110-105. Reserved.**

#### **ARTICLE IV. PLANNED UNIT DEVELOPMENT\***

**Sec. 110-106. Generally.**

The planned unit development concept is a recognition that, under certain circumstances, greater quality of development can be achieved by permitting modification of established zoning regulations and that when property is planned and developed as a unit, modification to establish regulations is possible without endangering the health, safety and general welfare of the public.

**Sec. 110-107. Purpose.**

It is the intent of this article to encourage unified design of housing, commercial, industrial or institutional areas and facilities or combinations thereof to provide for related developments having harmony of design and variety of function, and to provide for a greater flexibility in the design of buildings, yards, courts, and circulation than would otherwise be possible through the strict application of standard regulations. It is further the intent of this section to provide for:

(1) A maximum choice in the types of environment and living units available to the public.

(2) An integration of open space and recreation areas with residential development.

(3) A pattern of development which preserves trees, outstanding natural topography and geologic features.

(4) A creative approach to the use of land and related physical development.

(5) An efficient use of land, resulting in smaller networks of utilities and streets, and thereby, lower housing and maintenance costs.

(6) An environment of stable character in harmony with surrounding development.

**Sec. 110-108. Application.**

The provisions of this article may be applied to any zoning district at the option of the applicant; provided, however, that the applicant has been granted a PUD classification as provided for under the terms of this article and section 110-6.

**State law reference**--Local appraisal of property owned by a planned unit development association, V.T.C.A., Tax Code § 25.09.

**Sec. 110-109. Application for classification.**

(a) To zone property as provided for in this article, the applicant must complete all of the steps in the following process:

(1) *Preapplication conference*: Prior to the formal application for a PUD zoning change, the applicant shall discuss with the city manager the elements of the proposed planned unit development, including, but not limited to:

- a. The project location.
- b. The project size.
- c. The project's intended land uses.
- d. The variation from normal zoning provisions needed to implement the plan.
- e. The relationship of the proposed project to existing adjacent development.

f. The proposed document concerning maintenance of the common areas. Such document shall provide at a minimum a trust instrument or equivalent device that shall establish an institution other than the city to assure maintenance of the common areas in case of financial or other emergency.

The purpose of the preapplication conference is to clarify, for the applicant, the city's policies regarding planned unit development and for the city to provide an informal nonbinding opinion on the acceptability of the proposal.

(2) *Preliminary plan.* To receive preliminary approval of a request for PUD zoning, the applicant shall submit the following:

a. A preliminary plan including:

1. A location diagram at the convenient scale.

2. A land use plan at a scale of one (1) inch equals one hundred (100) feet, illustrating the boundaries of the proposed tract, any existing land uses on the proposed tract, any interesting or unusual existing features of the tract, including, but not necessarily limited to topography, vegetation or flooding, and adjacent existing land uses to a distance of two hundred (200) feet. This land use plan shall also illustrate existing zoning on and within two hundred (200) feet of the proposed development.

b. Two (2) copies of a plan of the proposed development at a scale of one (1) inch equals one hundred (100) feet, illustrating all of the elements of the proposal, including, but not limited to:

1. Land uses and drainage.

2. Circulation and parking.

3. Common area(s).

c. A staging plan, if appropriate to the proposal.

d. Sketches and / or elevation drawings illustrating visually the general features of the proposed plan.

e. A written statement outlining the applicant's views of the relationship of the proposal to any existing adjacent development.

The planning commission and the city council shall hold a joint public hearing, as specified in section 110-6, and all the requirements of section 110-6 must be met. Applicant should return to the planning commission of the commission requires changes of the preliminary or final plan.

(3) *Final plan.* To complete the zoning process, the applicant shall, as soon as possible following action on the preliminary plan, submit the following for review and approval:

a. Two (2) copies of a plan of the proposed development at a scale of one (1) inch equals one hundred (100) feet illustrating all of the elements of the proposal and reflecting all elements and changes required by the planning commission during the preliminary plan review process. Such changes shall be reviewed and approved by the planning commission.

b. Two (2) copies of a staging plan, if appropriate to the proposal, reflecting all changes required by the planning commission during the preliminary plan review process.

c. Two (2) copies of a legal instrument or instruments setting forth a plan or method of permanent care and maintenance of open spaces, recreational areas and other commonly owned properties including the legal instrument required by subsection (1)f. of this section.

(b) The council shall notify the applicant of their approval or disapproval. This approval shall constitute the final step in the process and when received, the zoning shall be changed.

**Sec. 110-110. Review of plat; recordation; changes.**

(a) *Subdivision plat.* Review of the preliminary plan and the final plan may, at the option of the applicant, be undertaken simultaneously with subdivision plat review; provided, however, that all requirements of this section and those of chapter 152 shall be met.

(b) *Recording of the approved plan.* Two (2) copies of the final approved plan shall be marked approved, dated, signed by the planning commission and submitted to the city manager for use in subdivision platting and / or for issuing building permits.

(c) *Changes in the plan.* Following favorable action by the planning commission, minor alterations to the plan that do not affect platting, the general character or overall design of the plan may be approved by the city manager and city engineer. Any other alterations shall be resubmitted for review by the planning commission.

**Sec. 110-111. Design standards.**

(a) *Permitted uses.* A planned unit development may be developed which includes any or all of the uses permitted in any specific zoning district as provided in sections 110-66 -- 110-83. A planned unit development may also encompass several zones; provided, however, that the uses permitted in each zone are limited to the boundaries of that zone.

(b) *Height requirements:* The maximum height of structures shall be as required in sections 110-66 -- 110-84.

(c) *Yard requirements.* Front, side and rear yards for the perimeter boundaries of the proposed development may be equal to the front, side and rear yards of the zoning district within which the development is located; provided, however:

(1) Internal perimeter yard requirements (e.g., zone to zone) may be varied at the discretion of the applicant and subject to commission approval; and

(2) The commission may require perimeter yards of greater or lesser depth to modify the relationship of proposed structures to existing structures.

(d) *Minimum lot requirements.* An individual lot for each structure is not required, but individual lots may be provided at the developer's option. There is no minimum area requirement for lots. Lot boundaries may coincide with structure boundaries if desired.

(e) *Density.* The number of primary structures permitted on a tract shall be determined by dividing the net area (net area equals the total area of a tract less the area devoted to streets, easements or other rights-of-way) of the tract by the values in the following table:

*Square Feet*

E-1 PUD .....	43,560
T-1 PUD .....	3,500
B-1 PUD .....	2,000
B-1A PUD .....	2,000
B-2 PUD .....	2,000
C-1 PUD.....	3,000
C-2 PUD .....	10,000
M-1 PUD .....	8,400

M-2 PUD ..... 15,000

(f) *Minimum floor area.* The minimum floor area for structures in a planned unit development shall be as defined by sections 110-66 -- 110-83.

(g) *Open space.* The required quantity of open space shall be determined by multiplying the net area of the tract by the values of the following table:

E-1 PUD .....	0.75
T-1 PUD .....	0.50
B-1 PUD .....	None
B-1A PUD .....	None
B-2 PUD .....	None
C-1 PUD .....	None
C-2 PUD .....	None
M-1 PUD .....	None
M-2 PUD .....	None

(h) *Open spaces uses.* The following uses are permitted on the required open space areas:

- (1) Uncovered parking.
- (2) Active and passive recreation uses.

(i) *Parking.* The required number of parking spaces shall be as provided in section 110-162.

(j) *Landscaping.* In keeping with the spirit of this section, landscaping shall be provided in both residential and nonresidential developments. Recognizing the need for diversity in design, there are not specific requirements for the type, amount or character of the landscaping elements, which shall be left to the discretion of the developer, provided the proposed landscaping and maintenance thereof be in keeping with the abovementioned spirit. In the location of landscaping elements such as trees, shrubbery, walls, and fences, care should be taken not to obstruct the necessary sight distance of any intersection within or adjacent to the property. Whenever practicable, the preservation of existing trees and appropriate other vegetation is encouraged. Screening, such as fencing, walls, trees, shrubbery and other landscaping elements, may be required on the perimeter, or parts of a planned unit development as buffering to adjoining properties.

**Sec. 110-112 -- 110-130. Reserved.**

**ARTICLE V. PLANNED UNIT RESIDENTIAL ZONE**

**Sec. 110-131. Intent.**

The planned unit residential zone is intended as a zone to encourage unified design of housing, commercial or institutional zones and facilities or combinations thereof to provide for related developments having harmony of design and variety of function.

**Sec. 110-132. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Common open space* means a parcel of land or an area of water, or a combination of land and water within the site designated as a planned unit residential zone, and designed and intended for the use or enjoyment of residents of the planned unit residential zone, common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the planned unit residential development. Parking areas shall not be considered as common open spaces.

*Landowner* means the legal or beneficial owner or owners of all the land proposed to be included in a planned unit residential zone. The holder of an option or contract to purchase, a lessee having a remaining term is not less than forty (40) years, or other person having an enforceable proprietary interest in such land, shall be deemed to be landowner for the purpose of this zoning section.

*Plan* means the proposal for development of a planned residential zone, including all covenants, grants of easement and other conditions relating to use, location and bulk of buildings, density of development, common open space and public facilities. The plan shall include such information as required by section 110-138. The phrase "provisions of plan" where used in this article shall mean those documents, verbal or graphic, referred to in this definition.

*Planned unit residential zone* means an area of land, controlled by the landowner, to be developed as a single entity for a number of dwelling units, the plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage, or required open space to the regulations in any one (1) residential district established by any other article of this chapter.

*Single ownership* means the proprietary interest of a landowner.

*Statement of objectives for planned unit residential zone* means that statement of objectives contained in section 110-134 and shall include all maps and attachments incorporated in that statement of reference.

**Cross reference** -- Definitions generally, § 1-2.

### **Sec. 110-133. Purpose.**

(a) The city, being confronted with increasing urbanization, and acknowledging that the technology of land development and the demand for housing are undergoing substantial and rapid changes, and recognizing the applicability of the objectives set forth by the city council, does hereby adopt this article for application to areas of land which are to be developed as planned residential developments.

(b) Of primary concern is the need to provide increased flexibility in the laws governing the development of those large areas in the city which are at present substantially open land; and to encourage such development in directions that will recognize both the changes in design and technology in the building industry and the new demands in the housing market; and to ensure that the uniform regulations appropriate to previously developed residential neighborhoods do not operate to discourage efficient and imaginative development of such substantially open areas consistent with the reasonable enjoyment of neighboring properties.

(c) Also of concern is the need for the redevelopment of those congested and blighted areas abutting the central areas of the city in order to furnish adequate housing facilities in proximity to the commercial and civic amenities of the central areas of the city, and in the belief that private investment should be encouraged to contribute to that redevelopment; and in recognition that such necessary redevelopment cannot be expected to take place in strict accordance with those uniform regulations appropriate to more viable established residential areas of the city.

**Sec. 110-134. Objectives.**

(a) It is the intent of this article to encourage unified design of housing, related facilities or combinations thereof to provide for related developments having harmony of design and variety of function, and to provide for a greater flexibility in the design of buildings, yards, courts, and circulation than would otherwise be possible through the strict application of standard regulations. It is further the intent of this article to provide for:

(1) A maximum choice in the types of environment and living units available to the public.

(2) An integration of open space and recreation areas with residential development.

(3) A pattern of development which preserves trees, outstanding natural topography and geologic features.

(4) A creative approach to the use of land and related physical development.

(5) An efficient use of land, resulting in small networks of utilities and streets and thereby lowering housing and maintenance costs.

(6) An environment of stable character in harmony with surrounding development.

(b) The city council is hereby designated as the municipal authority.

**Sec. 110-135. Application of article.**

(a) The provisions of this article shall apply only to a tract of land proposed to be developed for fifty (50) or more dwelling units, which tract is under single ownership, and for which an application for a planned unit residential zone is made as hereinafter provided.

(b) An application for a planned unit residential zone on a tract of land for more than twelve (12) but less than fifty (50) or more dwelling units may be filed but no tentative approval of such an application shall be given by the planning commission unless the commission shall find, upon a showing by the landowner, that the minimum of fifty (50) dwelling units should be waived because a planned unit residential zone is in the public interest, and that one (1) or more of the following conditions exist:

(1) Because of unusual physical features of the property itself or of the neighborhood in which it is located, a substantial deviation from the regulations otherwise necessary or appropriate in order to conserve a physical or topographic feature of importance to the city.

(2) The property or its neighborhood has a unique character of economic importance to the community that it will be protected by use of a planned unit residential development.

**Sec. 110-136. Permitted uses.**

Uses permitted in a planned unit residential development may include and shall be limited to:

(1) Dwelling units in detached, semidetached, attached or multistoried structures, or any combination thereof;

(2) Nonresidential uses of religious, cultural, recreational and commercial character to the extent they are designed and intended to serve the residents of the planned unit residential zone.

No commercial use, nor any building devoted primarily to a commercial use, shall be built or established prior to the residential buildings or uses it is designed or intended to serve.

**Sec. 110-137. Standards and criteria.**

(a) The plan for a planned unit residential zone shall be consistent with:

(1) The statement of objectives for planned unit residential zone;

(2) The general standards set out hereinafter; and

(3) The specific rules and regulations for the planned unit residential zone adopted from time to time and placed in the public record by the city council. No such rules and regulations shall be revised or added to so as to be applicable to a specific proposal for a planned unit residential zone after an application for tentative approval has been filed by the landowner.

(b) A plan shall be consistent with the following general standards for use of land, and the use, type, bulk, design and location of building, the density or intensity of use, the common open space, the public facilities and the development by geographic division of the site:

(1) The plan may provide of a variety of housing types.

(2) The total ground areas occupied by buildings, structures and parking areas, shall not exceed seventy (70) percent of the total ground area of the planned unit residential zone. For the purpose of this subsection, total ground area shall be equal to the gross area of the proposed planned unit residential zone site, less those areas required for public street improvements or excavated drainage areas.

(3) Height of particular building shall not be a basis for denial or approval of a plan, provided any structures in excess of thirty-five (35) feet shall be designed and platted to be consistent with the reasonable enjoyment of neighboring property and the efficiency of existing public services.

(4) Architectural style of buildings shall not be a basis for denying approval of a plan.

(5) Nonresidential uses of religious, educational or recreational nature shall be presumed to be designed or intended for the use of the residents of the planned unit residential zone, and the

burden shall be on the planning commission or objecting parties appearing at the public hearings to show by substantial evidence that the use will primarily serve persons residing outside the planned unit residential zone. The burden shall be on the landowner to show that nonresidential uses of a commercial character are intended to serve principally the residents of the planned unit residential zone. No building designed or intended to be used, in part or in whole, for commercial purposes shall be constructed prior to the construction of not less than fifty (50) percent of the dwelling units proposed in the plan.

(6) If the density or intensity of land use exceeds twenty (20) units per acre, the landowner has the burden to show that such excess will not have an undue and adverse impact on the existing public facilities and on the reasonable enjoyment of neighboring property. The planning commission, in determining the reasonableness of the increase in the units per acre, shall recognize that increased density may be compensated for by additional private amenities and by increased efficiency in public services to be achieved by the amount, location and proposed use of common open space and achieved by the location, design and type of dwelling units. The planning commission shall, in its determination, also consider that the physical characteristics of the site may make increased densities appropriate in the particular location.

(7) The amount and location of common open space shall be consistent with the declared function of the common open space as set forth in the application for a planned unit residential zone, and there shall be such provisions for the ownership and maintenance of the common open space as reasonable to ensure its continuity and conservation. If the common open space is permitted to deteriorate or is not maintained in a condition consistent with the best interest of the entire city, then, and in such event, the city shall take those remedial steps provided for in section 82- 41.

(8) The plan shall contain such proposed covenants, easements and other provisions relating to the bulk, location and density of such residential units, nonresidential uses and public facilities as are necessary for the welfare of the planned unit residential zone and are not inconsistent with the best interest of the entire city. Such covenants, easements and other provisions, if part of the plan as finally approved, may be modified, removed or released only in accordance with those requirements specified by this Code.

(9) The planning commission may designate divisible geographic sections of the entire planned unit residential zone to be developed sequentially, and shall, in such case, specify reasonable periods within which development of each such section must be commenced, and may permit in each section deviations from the number of dwelling units per acre established for the entire planned unit residential zone, provided such deviation shall be adjusted for in other sections of the development so that the number of dwelling units per acre authorized for the entire planned unit residential zone is not affected. The period of the entire development and the commencement date for each section thereof, may be modified from time to time by the planning commission upon the showing of good cause by the landowner, provided that in no case, shall any extension exceed twelve (12) months. If the landowner does not appear in the specified time, his final plat approval may be revoked by the planning commission. The landowner shall make such easements, covenants and other arrangements as may be determined by the planning commission to be reasonably required to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of such plan before completion.

**Sec. 110-138. Application for approval.**

(a) *Application for planned unit residential zone.* To zone property as provided for in this article, the applicant must complete all of the steps in the following process:

(1) *Preapplication conference.* Prior to the formal application for a planned unit residential zoning change, the applicant shall discuss with the city manager the elements of the proposed planned unit development, including, but not limited to:

- a. The project location.
- b. The project size.
- c. The project's intended land use.
- d. The variation from normal zoning provisions needed to implement the plan.
- e. The relationship of the proposed project to existing adjacent development.
- f. The proposed document concerning ownership and maintenance of the common areas. Such document shall provide at a minimum a trust instrument or equivalent device that shall establish an institution other than the city to assure maintenance of the common areas in case of financial or other emergency.

The purpose of the preapplication conference is to clarify for the applicant, the city's policies regarding planned unit development and for the city to provide an informal nonbinding opinion on the acceptability of the proposal.

(b) *Preliminary plan.* To receive preliminary approval of a request for planned unit residential zoning, the applicant shall submit the following:

- (1) A preliminary plan including:
  - a. A location diagram at a convenient scale.
  - b. A land use plan at a scale of one (1) inch equals one hundred (100) feet, illustrating the boundaries of the proposed tract, any existing land uses on proposed tract, any interesting or unusual existing features of the tract, including, but not necessarily limited to, topography, vegetation or flooding, and adjacent existing land uses to a distance of two hundred (200) feet. This land use of plan shall also illustrate existing zoning on and within two hundred (200) feet of the proposed development.
- (2) Two (2) copies of a plan on the proposed development at a scale of one (1) inch equals one hundred (100) feet, illustrating all of the elements of the proposal, including, but not limited to:
  - a. Land uses and drainage.
  - b. Circulation and parking.
  - c. Common area(s).
- (3) A staging plan, if appropriate to the proposal.
- (4) The variation from normal zoning provisions needed to implement the plan.
- (5) Sketches and/or elevation drawings illustrating visually the general features of the proposed plan.

(6) A written statement outlining the applicant's views on the relationship of the proposal to any existing adjacent development, and the landowner's reasons why, in his opinion, the planned unit residential zone would be in the public interest and would be consistent with the city's statement of objectives for planned unit residential zone and with the specific criteria, if any, theretofore published by the planning commission.

(7) The proposed document concerning ownership and maintenance of the common areas. Such document shall provide at a minimum a trust instrument or equivalent device that shall establish an institution other than the city to assure maintenance of the common areas in case of financial or other emergency.

(8) One (1) copy for every application for tentative approval received by the secretary shall be promptly delivered to the planning commission for its review. As part of its review the planning commission shall consult to the extent it deems necessary with the fire, health, building and other departments of the city concerning such application.

(9) Nothing contained in this section shall be deemed to forbid or discourage informal consultations between the landowner and the city staff prior to the filing of an application for a tentative approval, provided no statement or representation by a member of the staff shall be binding upon the planning commission.

#### **Sec. 110-139. Public hearing.**

The planning commission and the city council shall hold a joint public hearing on each proposed planned residential development, as specified in section 110-6, and all the requirements of section 110-6 must be met. Applicant should return to the planning commission if the commission requires changes of the preliminary or final plan.

#### **Sec. 110-140. Final plan and recordation.**

(a) *Final plan.* To complete the zoning process, the applicant for a planned residential development shall, as soon as possible following action on the preliminary plan, submit the following for review and approval:

(1) Two (2) copies of a plan of the proposed development at a scale of one (1) inch equals one hundred (100) feet illustrating all of the elements of the proposal and reflecting all elements and changes required by the planning commission during the preliminary plan review process. Such changes shall be reviewed and approved by the planning commission. All the requirements of the preliminary plan shall also be requirements of the final plan.

(2) Two (2) copies of staging plan, if appropriate to the proposal, reflecting all changes required by the planning commission during the preliminary plan review process.

(3) Two (2) copies of a legal instrument or instruments setting forth a plan or method of permanent care and maintenance of open spaces, recreational areas and other commonly owned properties including the legal instrument required by section 110-138 (b)(7).

(b) *Subdivision plat.* Review of the preliminary plan and the final plan may at the option of the applicant, be undertaken simultaneously with subdivision plat review; provided, however, that all requirements of this section shall be met.

(c) *Recording of the approved plan.* Two (2) copies of the final approved plan shall be marked approved, dated, signed by the planning commission and submitted to the city manager for use in subdivision platting and / or issuing building permits.

(d) *Changes in the plan.* Following favorable action by the planning commission, minor alterations to the plan that do not affect platting, the general character or overall design of the plan may be approved by the city manager and city engineer. Any other alterations shall be resubmitted for review by the planning commission.

The city council shall notify the applicant of their approval or disapproval. This approval shall constitute the final step in the process and when received, the zoning shall be changed.

**Sec. 110-141 -- 110-160. Reserved.**

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**ARTICLE VI. SUPPLEMENTARY REGULATIONS**

**Sec. 110-161. Customary Home Occupations.**

(a) [Definitions.]

*Community home* means a personal care facility licensed under V.T.C.A., Health and Safety Code ch. 247, provided that the exterior structure retains compatibility with the surrounding residential dwellings. No more than six (6) persons with disabilities can reside in a community home and the principal resident / owner must reside in the home. The aforementioned is subject to reasonable building occupancy limits as may be required of the building official and / or fire marshal. A community home may not keep, either on the premises of the home or on a public right - of - way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home.

*Customary home occupation* means an occupation which may be conducted in the home without changing the character of the residential use and which is incidental and secondary to the residential use.

*Person with a disability* means a person whose ability to care for himself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the person has:

- (1) An orthopedic, visual speech, or hearing impairment;
- (2) Alzheimer's disease;

- (3) Pre-senile dementia;
- (4) Cerebral palsy;
- (5) Muscular dystrophy;
- (6) Multiple sclerosis;
- (7) Epilepsy;
- (8) Cancer;
- (9) Heart disease;
- (10) Diabetes;
- (11) Mental retardation;
- (12) Autism; or
- (13) Emotional illness.

*Daycare facility* means a facility that is licensed or registered with the state which regularly provides care for persons less than twenty - four (24) hours a day.

*Kennel* means any lot, building, structure, enclosure, or premises where animals are kept wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, cats, or other animals.

*Service representative* means an occupation whereby a service is provided. Service representative includes but is not limited to electrician, plumber, interior decorator, accountant, air conditioning repair, small appliance repair, janitorial service, pool service, lawn and landscape service, real estate appraiser and similar occupation.

(b) Customary home occupations may be conducted in the home within the limits of the following:

(1) *Uses permitted* Customary home occupations include home office for a salesman, sales, or service representative, manufacturer representative, studio of an artist, musician, music teacher, photographer, writer, tailor, architect, dressmaker, launderer, registered family homes, agency homes, community home for the disabled, daycare facilities for twelve (12) or fewer persons, caterers licensed by the city or other similar occupations.

(2) *Uses not permitted.* Uses not considered customary home occupations include, but are not limited to, barbershops, beauty parlors, animal hospitals, kennels, carpenter shops, electrical shops, plumbing shops, radio shops, tin shops, auto repair, auto paint and body repair shops, furniture repairing shops, clinics, doctor offices, hospitals, real estate offices, insurance agent offices, health studios, palm readers, day care centers or day care facilities which care for more than twelve (12) persons, taxi and limousine services, garage / yard sales (except that as

many as two (2) garage / yard sales may be held per year), major appliance repair shops, dance studios, or other similar occupations.

(3) *Use restrictions.* In addition to the requirements of the appropriate section of this chapter, a home occupation shall comply with the following restrictions.

a. No home occupation shall cause, by reason of its existence, a significant increase in the number of vehicles traveling to and from the home or on the public streets surrounding or abutting the home, nor shall the home occupation receive regular deliveries from delivery trucks.

b. A home occupation shall in no way destroy, restrict or interfere with the primary use of the home as a place of residence.

c. No stock in trade shall be displayed or sold on the premises except that which is custom made to order.

d. The home occupation shall be conducted entirely within the principal dwelling unit or accessory structure, and in no event shall such use be visible from any other residential structure or public way.

e. There shall be no outdoor storage of equipment or material used in the home occupation.

f. No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other annoyance outside the residential or accessory structure shall be used.

g. No home occupation shall be permitted which is noxious or offensive to a person of ordinary sensitivity or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust, or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other objectionable emission.

h. No person other than members of the family residing on the premises shall be engaged in the home occupation unless required by licensing requirements or where such engagement is occasional and incidental to the occupation.

(4) *Advertising.* No sign advertising the home occupation shall be allowed on or off the premises.

(5) *Preexisting day care facilities.* Day care facilities operating prior to June 1, 1992, which are permitted for more than twelve (12) persons, may continue to exist or operate, provided that such facilities do not modify the terms and conditions of their current license with regard to owner and number of clients.

(6) *Penalty.* Any person who violates this section shall be subject to a fine of not more than two thousand dollars (\$2,000.00) for each violation for each day that the violation continues.

**State law reference** -- Industrial homework, V.T.C.A. Health and Safety Code § 143.001 et seq.

**Sec. 110-162. Parking requirements.**

Off-street parking facilities shall be provided in the following amounts when a building is erected, increased by unit, increased in dimension or moved:

- (1) One-family dwellings: Two-space garage/carport.
- (2) Two-family dwellings (duplexes): Four (4) space garage/carport .
- (3) Multiple-family dwelling:
  - a. Apartment house: Two and one-half (2 1/2) spaces per living unit.
  - b. Townhouses: Two (2) spaces per living unit.
- (4) Rooming houses, lodging houses, club rooms, fraternity and sorority houses and dormitories: One (1) space for every one hundred (100) square feet of floor area.
- (5) Hotels, motels, motor lodges, trailer courts, tourist courts: One (1) space for each guest room or trailer space and one (1) space for each two (2) employees (associated commercial, club, lounge or retail areas require additional spaces, see subsection (6)).
- (6) Dancehall, nightclub, tavern, restaurant, lounge, skating rink, commercial amusement: One (1) space for each three (3) persons normally accommodated in the establishment; for user not requiring a building, one (1) space for each eight hundred (800) square feet of ground area shall be provided.
- (7) Nursing homes and orphanages: One (1) space for each four (4) beds.
- (8) Hospitals, sanatoriums, home for the aged and youth home: One and one-half (1 1/2) spaces per bed or dwelling unit.
- (9) Office permitted in R-4 zone: One (1) space for each three hundred (300) square feet of gross floor area.
- (10) Theater, indoor sport arenas, auditoriums other than those incidental to public and private schools: One (1) space for each three (3) seats.
- (11) Stadiums, ballparks, gymnasium and other outdoor sports arenas: One (1) space for each three (3) seats. Such parking areas or any portion thereof may be located within eight hundred (800) feet of the nearest corner of the property on which the place of assembly is located.
- (12) Churches, assembly facility with fixed seating, mortuary or funeral home, or other places of worship: One (1) space for each three (3) seats in the main auditorium.
- (13) Retail stores, super markets, shopping centers:
  - a. For buildings of two thousand (2,000) square feet or less: One (1) space for four hundred (400) square feet of gross floor area.
  - b. For buildings in excess of two thousand (2,000) square feet in floor area: One (1) space for two hundred (200) square feet of gross floor area.

(14) Banks, savings and loan offices and other general business offices: One (1) space for each three hundred (300) square feet of gross floor area.

(15) Clinic, medical, dental or optical: One (1) space for each two hundred (200) square feet of gross floor area.

(16) Manufacturing, warehouses and storage not covered in subsection (13): One (1) space for each one thousand (1,000) square feet of floor area plus one (1) space for each four (4) employees.

(17) School:

a. Elementary: One (1) space for each nine (9) students.

b. Junior high: One (1) space for each nine (9) students.

c. Senior high: One (1) space for each one and three-quarters (1.75) students.

d. Trade / vocational: One (1) space per student.

e. College / university: One (1) space per day student.

f. Kindergarten: One (1) space per eight (8) pupils.

(18) Library: One (1) space for each three hundred fifty (350) square feet of public area.

(19) Community or welfare center: One (1) space for each two hundred (200) square feet of floor area.

(20) Assembly facility without fixed seating: One (1) space for each one hundred (100) square feet of floor area.

(21) Bowling alley: Six (6) spaces for each line.

(22) Other, as determined by the planning commission.

(23) Off-street parking for uses not specified in this section shall be determined by the planning commission.

(24) All parking spaces must be a minimum of nine (9) feet by eighteen (18) feet.

(25) All parking spaces required in this section shall be located on the same lot with the building or use served, except as follows:

a. Where an increase in number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required spaces may be located not to exceed three hundred (300) feet from an institutional building served and not to exceed five hundred (500) feet from any other nonresidential building served.

b. No more than fifty (50) percent of the parking spaces required for theaters, bowling lanes, dancehalls, nightclubs or cafes may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified below.

c. Not more than eighty (80) percent of the parking spaces required for a church or school auditorium may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified below.

d. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their intention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form by the city attorney and shall be filed with the application of a building permit.

(26) Any or all off-street parking requirements may be waived at the discretion of council where there is reasonable justification for so doing.

(27) Any head-in parking or parking on public right-of-way where street width is less than forty-eight (48) feet is prohibited in front of all property.

(28) Where there is on-street parking provided, those spaces in front of a property may be used by that property, plus one-half (1/2) the spaces in the center where there is center parking. If there is an esplanade, a lot may use the lots abutting and those at the esplanade.

(29) The provisions of this section shall not apply to the facilities or parking spaces approved by the city prior to March 1, 1981.

(30) Whenever a building or use is constructed or changed after the effective date of the Zoning Ordinance, by enlarging the floor plan area, number of employees, number of dwelling units, seating capacity or otherwise, to create a requirement for an increase in the number of parking spaces, such space shall be provided on the basis of the enlargement or change in use.

### **Sec. 110-163. Loading requirements.**

(a) On the same premises with every building devoted to retail trade, retail and wholesale food markets, warehouses, supply houses, wholesale and manufacturing trade, hotels, hospitals, laundry, dry cleaning establishments or other buildings where large amounts of goods are received or shipped, erected in any zone after the effective date of the Zoning Ordinance, shall provide loading and unloading space as follows:

(1) Buildings of less than ten thousand (10,000) square feet area must provide at the rear of each establishment a loading and unloading space which is adequate for the particular type of business.

(2) Buildings of ten thousand (10,000) square feet of floor area and over must provide one (1) off-street loading and unloading space within minimum dimensions of ten (10) feet by twenty-five (25) feet by fifteen (15) feet overhead clearance, plus one (1) additional such space for each additional fifteen thousand (15,000) square feet of floor space or major fraction thereof.

(3) Loading space being maintained in connection with any existing building on the effective date of the ordinance from which this provision derives shall thereafter be maintained so

long as such building remains, unless an equivalent number of such spaces are provided conforming to the requirements of this section; provided, however, that this regulation shall not require the maintenance of more loading space than is required for a new building.

(b) Supervised living facilities and other health care institutions or other buildings where large amounts of goods are received or shipped, erected in any zone after the effective date of the Zoning Ordinance, shall provide loading and unloading space as follows:

(1) Off -street facilities shall be provided and maintained for receiving and loading of merchandise, supplies and materials within a building or on the premises.

(2) Required off-street loading facilities may be adjacent to a public alley or private service drive, or may consist of a berth within a structure.

(3) No portion of a loading facility may extend into a public right-of-way.

(4) The off-street loading spaces or truck berths shall provide maneuvering areas on site to prevent any blockage of public right-of-way.

#### **Sec. 110-164. Mining, excavation, soil removal.**

No mining, excavation, or soil removal except in connection with construction covered by building permit.

#### **Sec. 110-165. Number of main buildings -- Residential.**

Only one (1) main building for single-family, two-family, or multifamily residential use, with permitted accessory buildings may be located upon any one (1) lot.

#### **Sec. 110-166. Same -- Nonresidential.**

Where a lot is used for retail, commercial, industrial or combination of same, more than one (1) main building may be located upon the lot but only when such building conforms to all the open space, parking and density requirements applicable to the uses and zones and when all such main buildings face upon a street.

#### **Sec. 110-167. Same -- Facing streets.**

Whenever two (2) or more main buildings, or portions thereof, are placed upon a single lot and such buildings will not face upon a street, the same may be permitted when the site plan for such development is approved by the city planning commission so as to comply with the normal requirements for platting.

#### **Sec. 110-168. Screening.**

Screening consisting of either masonry, or berms with adequate trees or shrubs, or chain link fencing with adequate trees or shrubs shall be required when a business, commercial or

industrial building backs up to either a major city street or a state highway and there are garbage receptacles, work vehicles and other common but unsightly operational or back-door materials visible. Such screening must be thick or dense enough to hide the unsightly items up to height of at least six (6) feet.

**Sec. 110-169. Permits for multiple buildings.**

Whenever an area or tract of land under one (1) or several ownerships is proposed for development with more than one (1) main building, permits may be issued for housing projects, shopping centers, institutions, industrial development, or a combination development of two (2) or more uses when the same is issued with the approval of the planning commission.

**Sec. 110-170. Height restrictions generally.**

No structure shall be built with a height of more than one hundred forty (140) feet within the thousand (10,000) feet of the center of the airport. No structure shall be built with a height of more than one hundred (100) feet within three (3) miles of either end of and in a line with any runway of an airport.

**Sec. 110-171. Sight-obstruction at intersections.**

On any corner lot on which front and side yards are required, no fence, structure, sign, tree, shrub, or hedge may be maintained within a twenty-five (25) foot isosceles triangle formed by the lot lines on the corner, as to cause danger to traffic by obstructing the view.

**Sec. 110-172. Fences -- When required.**

Where any R-4, B, C, or M zone abuts a single - family residence zone on either side or rear, the R-4, B, C, or M zone must provide a fence that is a minimum of six (6) feet and a maximum of seven (7) feet in height and that is solid enough to prevent lights shining through it. In addition, a B, C, or M zone must provide a five-foot setback except as otherwise provided in this Code, when it abuts a residential zone on either side or rear.

**Cross reference** -- Fence required for swimming pools, § 14-272.

**Sec. 110-173. Same -- Construction permits required.**

(a) It shall be unlawful for any person, business, partnership, corporation, or other entity, to commence the construction, enlargement, extension or relocation of a fence without first obtaining a permit from the building official for such work. There shall be no fee charged for a fence permit.

(1) *Application.* Application for a fence construction permit shall be made to the building official on forms provided for that person.

(2) *Requirements.* The building official shall require that every application for a fence construction permit be accompanied by one (1) copy of a plan or plot drawn to scale and showing

the following in sufficient detail to enable the building official to ascertain whether the proposed fence and its placement is in accordance with this chapter:

a. *Lot dimensions and corners.* The actual shape, proportion and dimensions of the lot to be built upon and satisfactory evidence that actual corners of the lot are known and are identified by stakes or rods and established on the ground. The proposed fence should be within the property line of the lot seeking the permit.

b. *Existing yards.* The dimensions of all yards and such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of the chapter are being observed.

**c. Proposed structures.**

1. The shape, height, type, quality, fabric, and location of all fences to be constructed, enlarged, extended or moved and of any fences or other structures already on the lot.

2. All wood materials shall be naturally decay resistant or pressure treated exterior grade, such as redwood or cedar, or other materials acceptable to the city.

3. All nails or fasteners shall be of no rusting, noncorrosive metal such as hot dipped galvanized steel. All nails or fasteners shall be of the type (such as screw shank, ring shank, or divergent point staples) that when properly driven, will not work free, due to wind, vibration or shrinkage of members.

4. All materials shall be securely fastened, vertical boards to horizontal stringers, stringers to vertical posts, top rail, to ensure an ongoing attractive appearance and safe condition, free from rust, rot, vandalism, and other sources of decay.

(3) *Issuance.* If the proposed fence as set forth in the application is in conformity with the provisions of this chapter, the building official shall issue a fence permit.

(4) *Disapproval.* If an application for a fence permit is not approved, the building official shall state in writing on the application the reasons for such disapproval.

(b) No fence or enclosure shall exceed a height of seven and one half (7 1/2) feet measured from the ground directly below the fence, with the following exceptions:

(1) The side of the property abutting an arterial street or state highway may have fences up to eight and one-half (8 1/2) feet in height.

(2) Business properties in business, commercial and manufacturing zones (B-1 through M-2) may, for security purposes, have fences up to ten (10) feet in height.

(c) No fence or enclosure shall extend closer to any street right-of-way line than the building line in front (see section 110-2 building line definition, being the front of the building) and the point of intersection of the building line with the property line on the side, except for – picket, chainlink, and ornamental see – thru fences are to be permitted in front of the building line on those lots platted prior to the date of the ordinance. Fences on corner lots must allow clear traffic line of sight, and be no more than 4' in height. Any plants, trees, etc. planted must also

allow clear traffic line of sight. Also, when the lot is at least one (1) acre or more, ornamental see – thru (spaces six (6) inches to eighteen (18) inches in width) iron or steel fences with brick pillars may be erected up to and along the minimum setback line in front and on the property line on the side to its intersection with the minimum setback line in front.

(d) All fences shall be maintained by the property owner / lessee and shall be kept clean, free from all hazards such as, but not limited to faulty and loose fastenings, nails, boards, so as not to be detrimental to the public health and safety.

(e) Standard chain link or wood fencing is approved. Prohibited fencing includes, but is not limited to plywood, corrugated metal, chicken wire, cardboard, barbed wire or similar type fences.

(f) A fence shall not be considered a "structure" as defined in Section 103.6 of the Standard Building Code (1994) and Section 103.6 of the Standard Building Code shall not be applicable to any fence constructed in the City of Sweeny.

#### **Sec. 110-174. Surfacing of off-street parking areas.**

All off-street parking areas should be graded and paved with an all weather type pavement, either concrete, asphalted concrete or other surfacing material.

#### **Sec. 110-175. Lot widths.**

For the purpose of determining the minimum required width of the lot for building purposes, the width required may be measured at either the front line or the building line, whichever is greater, as long as either the front line or the building line meet the minimum requirement for the frontage of the lot or site under this Code for the particular zone and the lot meets the total square footage requirement of the Code for that zone.

#### **Sec. 110-176. Tents in business and commercial zones.**

The time period for which a business or other entity may erect or have a tent on their premises in business and commercial zones for the purpose of housing materials, providing cover from the elements, providing for an outside sale area, providing for entertainment, conventions or any other social, business or commercial purpose shall not exceed thirty (30) days total for a calendar year.

#### **Sec. 110-177. Screen enclosures.**

(a) Definitions.

(1) Screen enclosure: A metal structure completely encapsulated by only a fabric which allows the elements to pass freely through it and has no roof.

(2) Interpretation of the definition of a screen enclosure shall be the duty of the building official.

(3) Appeals of the definition may be made to the zoning board of adjustments through the building official. The decision of the zoning board of adjustment shall be final if no challenge suit is filed in district court within fifteen (15) days after the decision.

(b) Screen enclosures shall not be counted toward total percentage of allowable structures on any lot. This subsection shall apply to all those structures existing on the effective date of the Zoning Ordinance, as well as those that are erected after that date.

(c) Additionally, screen enclosures shall:

(1) Be designed and stamped by an engineer to withstand wind load of one hundred twenty (120) miles per hour;

(2) Not encroach onto any easements or setback requirement;

(3) Be considered a structure and a permit is required;

(4) Be exempted from the percentage of lot allowed for buildings or structure; and

(5) Be subject to all other requirements for buildings or structures and those requirements shall be enforced.

#### **Sec. 110-178. Design limitations.**

(a) The following design limitations shall apply after the effective date of the Zoning Ordinance, when a B-1A, B-2, C-1, C-2, M-1, or M-2 zone lot line is within sixty (60) feet of a single-family residential area lot lines:

(1) All garbage storage shall be screened and located no closer than ten (10) feet from a single-family residential zone and may not be located between the front of the structure and any street right of way.

(2) Unsightly features (loading docks, mechanical equipment, etc.) shall be screened through the use of masonry walls, fencing, berms with adequate trees or shrubs, or chain link fencing with adequate trees or shrubs, all being thick enough to hide the unsightly features from neighboring residential areas.

(3) Hours of operation shall be limited to 5:00 a.m. to 12:00 midnight unless planning commission review determines alternative hours will not adversely impact the neighborhood residents outside normal hours of operations, all external lighting except the necessary for security purposes shall be secured.

(4) No structure shall be located nearer to any single-family residential property than a distance equal to one and one-half (1 1/2) times the height of the exterior walls of such building or structure. But those businesses built prior to March 1, 2000, are exempted from this requirement.

(5) No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other annoyance at nearby residential lot lines shall be permitted. Mechanical and electrical equipment shall be designed and installed to minimize noise impact on surrounding residential property. Additionally, no external amplified sound for other than safety or security purposes is allowed.

(6) Uses that typically and inherently produce significant noise such as tire shops, muffler shops, and car wash facilities are not allowed unless design features are present to eliminate noise that would intrude on the neighborhood.

(7) All exterior signage, both temporary and permanent, shall meet the conducive color standards of section 110-72 (17) and is subject to a design review and placement study by the planning commission. All signage detached from buildings / structures shall meet the requirements of a monument sign as defined in section 78-10 of this Code.

(8) All storage, both temporary and permanent, of materials, pending customer work (i.e., vehicles), freight/deliveries or products intended for sale/lease shall be within the building or structure.

(b) The following performance standards shall be used after the effective date of the Zoning Ordinance for the purpose of evaluating the development proposals when a B-1A, B-2, C-1, C-2, M-1, or M-2 zone lot line is within sixty (60) feet of single-family residential area lot line:

(1) New development shall be designed to be compatible with neighboring residential areas. This shall require that materials used on the outside of the buildings be of earth tone colors conducive to colors in the surrounding residential area.

a. Colors of awnings should be muted, natural or earth toned and related to major materials of the building.

b. Window frames may be of an accent color to complement the major wall material.

c. Paint shall be flat or semi-gloss.

d. Metal roofs grey, natural green, rust or brown.

e. Metal canopies dark anodized or black to match roof.

This shall involve the preservation of the character of the character and integrity of residential areas and the maintaining of an appropriate visual and functional interrelationship between residential and commercial uses. Potential intrusive design elements such as traffic circulation and light and glare shall be designed to avoid interference with the residence environment.

(2) The height, scale, mass and bulk of buildings shall not be overbearing in relation to neighboring residential structures. Height, scale, mass and bulk shall also be a function of their proximity to residential structures, with buildings in close proximity made to adhere to a similar scale of development. Potential view impediments shall also be considered.

(3) Architectural styles and features shall be compatible with and complementary to neighborhood residential structures to the extent commercial and residential structures share a visual relationship.

**Sec. 110-179 -- 110-195. Reserved.**

## **ARTICLE V11. AIRPORT ZONING**

**Sec. 110-196. Airport zoning.**

(Reserved)

**Editor's note** -- The above section is reserved for future airport zoning regulations.

**State law reference** -- Municipal and county zoning authority around airports, V.T.C.A., Local Government Code ch. 241