

# **RICE, TEXAS**

## **COMPREHENSIVE DEVELOPMENT PLAN**

### **VOLUME 2**

### **PLANNING ACTIVITIES**

## **ADMINISTRATIVE CONTROLS**

### **ZONING ORDINANCE**

### **SUBDIVISION REGULATIONS**

**1998-2020**

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professional assistance prepared by



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# **CITY OFFICIALS**

## **MAYOR**

**Roger Wear**

## **COUNCIL MEMBERS**

**Gary Farley**

**Jerry Herring**

**Mike Cox**

**Larry Bailey**

**Jim O'Brien**

## **CITY SECRETARY**

**Dawn O'Brien**

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## **ZONING ORDINANCE**

**1998-2020**

CITY OF RICE  
ZONING ORDINANCE

AN ORDINANCE OF THE CITY OF RICE, TO BE KNOWN AS THE ZONING ORDINANCE, ESTABLISHING AND PROVIDING FOR ZONING REGULATIONS; CREATING USE DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN, WHICH TOGETHER WITH THE ZONING MAP; REGULATING WITHIN SUCH DISTRICTS THE SIZE AND USE OF BUILDINGS AND LOTS THAT MAY BE OCCUPIED; ESTABLISHES PARKING REQUIREMENTS; PROVIDES FOR THE ISSUANCE OF SPECIFIC USE PERMITS; REGULATES HOME OCCUPATIONS; REQUIRING OFF-STREET PARKING AND LOADING; PROVIDES FOR SCREENING; REGULATES SEXUALLY ORIENTED BUSINESSES; PROVIDES FOR THE CLASSIFICATION OF NEW AND UNLISTED USES; REGULATES NON-CONFORMING USES; PROVIDES FOR AMENDMENTS TO THE ZONING ORDINANCE; PROVIDES FOR THE CREATION; APPOINTMENT AND DUTIES OF THE BOARD OF ADJUSTMENTS; PROVIDES ZONING DEFINITIONS; PROVIDES FOR THE INTERPRETATION AND CONFLICTS; PRESERVES RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES; REPEALS CONFLICTING ORDINANCES; PROVIDES FOR SEVERABILITY OF EACH SECTION, PARAGRAPH, SENTENCES, CLAUSES AND PHRASES OF THE ZONING ORDINANCE; PROVIDES FOR A GENERAL PENALTY FOR VIOLATIONS NOT TO EXCEED TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**Whereas**, the City of Rice is empowered by Chapter 211 of the Texas Local Government Code to establish a zoning ordinance;

**Whereas**, the Planning and Zoning Commission of the City of Rice has given appropriate and reasonable consideration to the zoning regulations and districts most appropriate for the City and made such recommendations to the Rice City Council.

**Whereas**, both the Planning and Zoning Commission and the City Council of the City of Rice have duly held public hearings and given proper notice pertaining to the adoption of this zoning ordinance;

**Whereas**, the Rice City Council finds that the zoning ordinance represents the best interest of all citizens of Rice and promotes the public health, safety and welfare of the people; NOW,.

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

**SECTION 1. TITLE**

This ordinance, together with all subsequent amendments thereto, shall hereby be referred to as the "Zoning Ordinance of the City of Rice, Texas".

**SECTION 2. PURPOSE AND INTENT**

This ordinance is prepared under the authority of V.T.C.A. Local Government Code, Chapter 211, to promote health, safety, morals, and for the protection and preservation of places and areas of historical and cultural importance and significance, and the general welfare of the community. These zoning regulations are made in accordance with the spirit of the city comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote the general welfare of the community; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public

requirements. These regulations are made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city.

### SECTION 3. ZONING ADMINISTRATION

#### A. ADMINISTRATION

The City Secretary is hereby designated by the City Council as the Zoning Administrator to supervise the administration and enforcement of these regulations. The City Secretary may appoint an assistant to help him or her with the general administration and enforcement duties required for the implementation of this zoning ordinance.

It is the intent of this ordinance that the duties of the Zoning Administrator shall include:

1. Review all zoning request for amendments, appeals, specific uses, and variances.
2. See that property owners within two hundred feet (200') of any property on which a change in zoning regulations, or district boundaries are notified by mail. Such notice shall be given, not less than ten (10) days before the day set for hearing.
3. Prepare copies of zoning material for public hearings to the Planning and Zoning Commission, Zoning Board of Adjustment, and City Council and serve as their support staff in zoning matters.
4. Present zoning application and specific use permit request to the Planning and Zoning Commission and City Council during public hearings.
5. Keep the Zoning District Map updated as district boundaries and specific uses and overlay zones are approved by the City Council.
6. Notify in writing action taken by the City Council to the appropriate property owner or owners to their zoning request.
7. If the Zoning Administrator or his or her designated administrative official finds that any of the provisions of this ordinance are being violated, the Zoning Administrator or his or her designated administrative official shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator or his or her designated administrative official shall order the discontinuance of any illegal use of land, buildings or structures, the removal of any illegal buildings or structures or of any illegal additions, alterations or structural changes, the discontinuance of any illegal work being performed; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of these provisions.

#### B. INTERPRETATION AND APPEALS

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator or his or her designated representative, and that such questions shall be presented to the Zoning Board of Adjustment only on appeal from the decision of the Zoning Administrator or other administrative official, and that recourse from the decisions of the board of adjustment shall be to the courts as provided by law.

#### C. CITY COUNCIL DUTIES

The City Council shall consider and adopt or reject proposed amendments to this ordinance or of its repeal. In addition, the City Council shall establish a schedule of fees and charges as stated in Subsection D here below.

#### D. FEES

The City Council shall, by ordinance or resolution, establish a schedule of fees and charges for the permits, certificates of occupancy, zoning change requests, zoning board of adjustment appeals and other matters pertaining to this ordinance. The schedule of fees and charges may be altered or amended only by action of the city council. Until all applicable fees and charges have been paid in full, no action shall be taken on any zoning application or appeal.

#### E. BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

##### 1 Zoning Conformance Required Prior to Issuance of Building Permits

No building permit shall be issued by the City of Rice for any structure unless the structure conforms with the provisions of this ordinance.

A building permit shall be required from the Building Inspector for the erection, alteration, or enlargement of any building or a moved building onto a lot within the City. The applicant must file with the Building Inspector's Office a plan, drawn to scale, and in such form as prescribed by the said Building Inspector, correctly showing the location and actual dimensions of the lot to be occupied, the dimensions and location on the lot of the building to be erected, altered, enlarged or moved in, together with a true statement in writing, signed by the applicant, showing the use for which such building is arranged, intended or designed, and furnishing such other information as the Building Inspector may require in the enforcement of the provisions of this Ordinance, and any failure to comply with the provisions of the Ordinance shall be good cause for the revocation of any such building permit by the Building Inspector. A record of such applications and plans shall be kept in the office of the Building Inspector.

All outstanding permits shall be valid for a maximum period of ninety (90) days after adoption of this Ordinance. All building permits issued after the adoption of this Ordinance shall be valid for a period of ninety (90) days.

##### 2 Certificate of Occupancy Required for New, Altered, or Changed Use

A certificate of occupancy shall be required for any building which is hereafter erected, changed, converted or altered in its use or structure. The certificate of occupancy shall not be issued unless the building or land conforms to all applicable codes and the requirements of this ordinance. Application for this certificate of occupancy shall be made at the same time as the application for a required building permit. The certificate of occupancy shall be issued within ten (10) days after the erection or structured alterations of such buildings shall have been completed in conformity with the provisions of these regulations.

Use or occupancy, or allowing the use or occupancy, of such a building without having obtained a certificate of occupancy as required herein shall be deemed a violation of this ordinance and that be punishable by fine.

##### 3 Certificate of Occupancy Required to Change, Alter, Enlarge, or Modify a Non-conforming Building or Use

Should the owner or occupant of a non-conforming building or use desire to change, alter, enlarge, or otherwise modify the non-conforming building or use, he or she shall be required to: (1) file an affidavit with the city stating that such building or land occupied by the non-conforming building or use was, to the best of the owner or occupant's knowledge, in lawful use and lawfully existing as of the date of adoption of this ordinance. Said affidavit shall include a statement providing the basis for the person's knowledge of the statement made; and (2) submit an application to the city for a new certificate of occupancy. Upon proper application and satisfaction that the non-conforming building or use was in

existence as of the date of adoption of this ordinance, the city may issue a certificate of occupancy for the lawful non-conforming building or use in accordance with the rules and requirements for such issuance. Any person denied a certificate of occupancy under these provisions shall have the right to appeal the decision to the board of adjustment.

Use or occupancy or allowing the use or occupancy of such a building without having obtained a certificate of occupancy as required herein shall be deemed a violation of this ordinance and shall be punishable by fine.

4 Temporary Certificates of Occupancy

A temporary certificate of occupancy may be issued by the city for a period not exceeding three (3) months during alterations or partial occupancy of a building pending its completion, provided that said temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.

5 City to Maintain Record of Certificates of Occupancy

The City of Rice shall maintain a public record of all certificates of occupancy.

6 Construction and Use to be as Provided in Applications, Plans, Permits and Certificates of Occupancy

Building permits and/or certificates of occupancy issued on the basis of plans and applications approved by the City of Rice authorize only that specific use, structural arrangement, or construction as set forth in such approved plans and applications. Any other use, arrangement, or construction shall be deemed a violation of this ordinance and shall be punishable by fine.

7 Building Permits and Certificates of Occupancy Issued in Error Are Avoidable

Whenever a building permit or certificate of occupancy has been granted in error by an administrative official of the City of Rice, the permit or certificate may be voided by the city council. Prior to such action by the city council, the affected party shall be given an opportunity in a hearing before the city council to show why such permit or certificate should not be voided. Notice of such hearing shall be served upon the affected party at least ten (10) days prior to such hearing by personal service or by mailing such notice by certified mail, prepaid, return receipt requested, to his or her address as it appeared in the application filed for the building permit or certificate of occupancy. The city council shall give due consideration to the arguments of the affected party in determining whether to void the building permit or certificate of occupancy and shall render its decision after hearing and considering all such arguments.

## SECTION 4. ZONING DISTRICT MAP

### A. OFFICIAL ZONING MAP

The city is hereby divided into zoning districts, as shown on the official zoning map, which together with all explanatory matter thereon, is hereby adopted and declared to be a part of this zoning ordinance. This map shall be kept on file in the office of the city secretary and shall be available for public inspection during regular office hours. The official zoning map shall be identified by the signature of the mayor, attested by the zoning administrator, and bearing the seal of the city under the following words: "This is the official zoning map as adopted by part of Ordinance No. \_\_\_\_\_ on \_\_\_\_\_, 199\_\_ by the City Council of the City of Rice, Texas.

When changes are made in any zoning district boundaries, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the city council. No zoning change shall become effective until after its approval by the city council.

**B. ZONING MAP REPLACEMENT**

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

**"This is to certify that this official zoning map supersedes and replaces the official zoning map adopted on August 2, 1983 as a part of the zoning ordinance of the City of Rice, Texas."**

**C. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following shall apply:

- 1 When the district boundaries are roads or streets, unless otherwise shown, and where the designation of the district map indicates that the various districts are bounded by a road or street line, the center line of such road or street shall be construed to be the district boundary line;
- 2 Where the district boundaries indicated follow platted lot or tract lines, the district boundaries shall be construed to follow such lot or tract lines.
- 3 Where the district boundaries indicated appear to follow city limit boundaries, the district boundaries shall be construed to follow the city limit boundaries.
- 4 Where district boundaries indicated as dividing a lot or tract, the district boundaries shall be construed as being located as shown on the Zoning District Map. Distances not specifically indicated on the Zoning District Map shall be determined by the scale of the map.
- 5 Where district boundaries are disputed or not otherwise clearly designated, or where the physical or structural features are at variance with the official zoning map or in other circumstances not covered in this section, the zoning board of adjustment shall interpret the district boundaries.

**SECTION 5. ZONING DISTRICTS****A. ESTABLISHMENT OF DISTRICTS**

For the purpose of this ordinance, the City of Rice, Texas is hereby divided into ten (10) zoning districts in which eight (8) are specific zoning districts and two (2) are overlay zoning districts. The ten zoning districts are as follows:

Specific Zoning Districts	Overlay Zoning Districts
<ol style="list-style-type: none"> <li>1. "R-1" - Single Family Residential District</li> <li>2. "R-2" - Single Family Residential District</li> <li>3. "R-3" - Two Family Single Family,</li> <li>4. "M4" - Multiple Family Residential District</li> <li>5. "MH" - Manufactured Home District</li> <li>6. "LR" - Local Retail District</li> <li>7. "C" - Commercial District</li> <li>8. "I" - Industrial District</li> </ol>	<ol style="list-style-type: none"> <li>9. "IH" - Interstate Highway 45 Business District</li> <li>10. "FP" - Flood Plain Districts</li> </ol>



**B. NEWLY ANNEXED TERRITORY****1 Annexed Territory to be Temporarily Zoned R-1**

All territory hereafter annexed to the city shall be temporarily zoned as "R-1" single family residential district, until permanent zoning is established by the city council, except as provided in paragraph (3) below. The procedure for establishing permanent zoning on newly annexed territory shall conform to the procedure established by law for the adoption of the original zoning regulations. However, nothing herein shall prevent the granting of permanent zoning at the time of annexation and zoning such territory other than an "R-1 District."

**2 Regulations for Temporary R-1 Districts**

In an area temporarily classified as R-1:

- (a) No person shall erect, construct or add to any building or structure or cause same to be done in any newly annexed territory without first applying for and obtaining a building permit or certificate of occupancy from the city as required herein.
- (b) No building permit for the construction of a building or a certificate of occupancy shall be issued other than for the construction of a building or a use permitted in R-1 District(s).

**(3) Concurrent Re-Zoning and Annexation**

Application(s) for permanent zoning of a newly annexed area may be considered by the city at the same time as the area is being considered for annexation, although annexation procedures must be completed prior to any final zoning actions by the city council.

**C. GENERAL COMPLIANCE WITH DISTRICT REGULATIONS**

The regulations established by this ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each class and kind of structure or land, and in accordance with the following:

**1 Conformity with District Required**

No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, reconstructed, enlarged or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located.

**2 Height and Lot Coverage to Conform with District Regulations**

No building or other structure shall hereafter be erected, reconstructed, enlarged or structurally altered to exceed the height or to occupy a greater percentage of the lot area which is prescribed for the district in which it is located.

**3 Height and Area Exceptions**

The regulations contained herein relating to the height of buildings or structures and the size of yards and other open spaces shall be subject to the following exceptions:

- (a) Chimneys, non-commercial television receiving antennas, and satellite dishes as part of a residential development or use are hereby exempted from the height regulations as established herein.
- (b) Church steeples or spires, belfries, cupolas, cooling towers, tanks, water towers, microwave radio and television relay or broadcasting towers, mast or aials and necessary mechanical appurtenances are hereby excepted from the height regulations as established herein; provided, a specific use permit or variance is granted when the maximum height allowed in the zoning district is exceeded.

- (c) When a lot has an area less than the minimum number of square feet, lot width or lot depth as required for the district in which it is located, and was of record as such at the time of the passage of this zoning ordinance, such lot may be continued to be occupied or used and nothing herein shall prohibit the erection a single family dwelling. However; no building or structure shall be erected, reconstructed, enlarged or structurally altered on such non-conforming lot unless a variance has been granted to do so.
- (d) An open, uncovered porch or paved terrace may project into a required front, back or side yard setback for a distance of not more than ten (10) feet, but shall not be interpreted to include or permit fixed canopies.

4 Yards to Conform with District Regulations

No building or other structure shall have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required or in any other manner be contrary to the provisions of these regulations unless existing at the time of passage of this ordinance, in which case, they shall not be further reduced in size without a variance.

5 No Yard or Other Integral Component Required for Any Building Shall be Counted Twice

No part of a yard or other open space, off-street parking or loading space required in connection with any building for the purpose of complying with these zoning regulations shall be included as a part of a yard, open space, off-street parking or loading space similarly required for any other building.

6 Visibility at Intersections Required

On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet (2-1/2') to ten feet (10') above ground level measured from thirty feet (30') from the corner intersection.

7 Access to Structures

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street; and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

8 Refuse Containers Prohibited in Front or Side Yard of Business

Refuse containers or dumpsters shall not be located in the front or side yard of any business establishment or property zoned for commercial or industrial use. This restriction shall not apply in cases where compliance would cause such containers to be inaccessible to refuse collection vehicles. For the purposes of this restriction, the zoning administrator shall determine after reasonable investigation whether the container is so accessible or not.

9 Number of Dwellings Per Lot Restricted

No more than one dwelling shall be permitted on any lot of record which is zoned as an "R-1" and "R-2", District and on any lot in the "MH" District subdivided for a single manufactured home.

D. SCHEDULE OF DISTRICT REGULATIONS ADOPTED

The following table of district regulations is hereby adopted and shall be considered as part of each applicable zoning district regulation as hereafter described in this ordinance:

## SECTION 5. D - SCHEDULE OF DISTRICT REGULATIONS

Area Regulations	R-1	R-2	R-3 Single-Family	R-3 Two-Family	R-4 Multi-Family	MH	LR	C	I
Minimum Lot Area (Sq. Ft.)	7,000	5,000	5,000	6,000	(b)	(e) (f)	3,000	N/A	N/A
Minimum Lot Width (Feet)	60	50	50	60	60	40* 60**	25	N/A	N/A
Minimum Lot Depth (Feet)	110	100	100	100	100	80* 100**	100	N/A	N/A
Minimum Front Yard Setback (Feet)	25 (a)	25 (a)	25 (a)	(a)	(a) (c)	25* 25**	(h)	(h)	(h)
Minimum Front Yard Setback-Major Street (Feet)	35	35	35	35	35	25* 25**	(h)	(h)	(h)
Minimum Side Yard Setback (Feet)	5	5	5	7	10	6* 6**	(i)	(i)	(i)
Minimum Side Yard Setback - Corner Lot	15	15	15	15	15	25* 25**	10	N/A	N/A
Minimum Side Yard Set-back - Corner Lot Fronting at Front & Side St.	25	25	25	25	25	25	N/A	N/A	N/A
Minimum Rear Yard Setback (Feet)	20 (a)	20 (a)	20 (a)	20 (a)	15 (a)	20* 25**	(k)	(k)	(k)
Maximum Hgt.(Stories) Height of Structure (Ft)	2.5 35	2.5 35	2.5 35	2.5 35	3 45	1.5 25	3 45	8 100	8 100
Maximum Lot Coverage	40%	40%	40%	40%	40%	40%	N/A	N/A	30%
Minimum Living Area-Excluding Garage	1,200	800	800	(d)	(d)	(g)	N/A	N/A	N/A

\* Pertains to manufactured home park. (Front yard setback shall be from a dedicated street right-of-way or from any private drive designed or used for access, circulation or service within the park.)

\*\* Pertains to individually-owned manufactured home lots.

- (a) R-1, R-2 and R-3 district - lots having a double street frontage at the front & back, the minimum front yard requirement shall be provided at the front and back lot line.
- (b) R-4 district - the minimum lot area shall be 7,000 square feet for a multiple family unit and there shall not be less than twelve hundred 1,200 square feet of lot area for each family unit.
- (c) R-4 district - the minimum front yard shall be 25 feet on a non-major street, except where circular or similar entrance drives cross the lot in front of the main building are used, in which event the minimum front yard depth shall be 35 feet and no parking space or vehicle storage area shall be located closer to the front property line than 25 feet.
- (d) R-4 district - the minimum living area per unit shall be five hundred (500) square feet for an efficiency, six hundred fifty (650) square feet for one (1) bedroom, eight hundred (800) square feet for two (2) bedrooms, and nine hundred (900) square feet for three (3) bedrooms. However, the average living area for all apartments in an apartment building must be a minimum of eight hundred (800) square feet.
- (e) For manufactured home lots which are individually owned, the minimum lot area shall be five thousand (5,000) square feet when a public sewer system is available. When septic tanks are used the square feet of the lot area shall be the size specified by the state agency that monitors Wastewater systems.
- (f) For manufactured home parks, the minimum lot area shall be at least three times larger than the manufactured home to be placed thereon and in no event less than three thousand five hundred (3,500) square feet in area when a public sewer system serves the park. Where no public sewer system is available and septic tanks are used for sewerage disposal, the minimum lot area shall be size specified by the state agency that monitors Wastewater systems.
- (g) The minimum living area for a manufactured home is four-hundred fifty (450) square feet.

- (h) No front yard or setback is required for commercial or industrial structures except where a lot adjoins a residential district or lot, in which the front yard in the commercial or industrial district shall be provided for a distance of not less than twenty-five (25) feet from the boundary of said residential district or lot.
- (i) A front yard or setback of thirty-five (35) feet shall be required in the Commercial Zone for any residential, retail, commercial or industrial structure facing or siding on Interstate Highway 45.
- (j) No side yard shall be required for commercial or industrial structures except that a side yard of not less than ten (10) feet in width shall be provided on the side of a lot adjoining a residential district and on corner lots
- (k) No rear yard is required for commercial or industrial structures except that a rear yard of not less than fifteen (15) feet in depth shall be provided upon that portion of a lot abutting upon a residential district or lot.

## **SECTION 6. "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT**

### **A. PURPOSE**

The "R-1" Single Family Residential District is established to allow for single family dwellings.

### **B. PERMITTED USES**

The uses permitted in the "R-1" District include those listed in the "Schedule of Uses" found in **Section 16** hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with **Section 22** of this ordinance dealing with new and unlisted uses.

### **C. SPECIFIC USE PERMIT**

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the Planning and Zoning Commission shall forward their recommendations of action to the City Council, after public hearing thereon. The City Council shall hold a public hearing and may authorize and grant the issuance of a specific use permit for such uses allowed in the schedule of uses in **Section 17** of this ordinance. The issuance of the permit by the City Council shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the conditional use of the land and buildings granted.

### **D. AREA: YARD: HEIGHT: LOT COVERAGE: AND BUILDING SIZE**

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in **Section 5. D** and any other applicable regulations as herein provided.

### **E. PARKING REQUIREMENTS**

Off-street parking space requirements shall be in accordance with the parking schedule found in **Sections 16 and 19** hereof. Parking for at least two motor vehicles shall be provided by an enclosed garage or carport for any single family dwelling constructed after the date of adoption of this ordinance.

### **F. SALES DISPLAYS PROHIBITED**

- 1 Garage sales shall be permitted in accordance with Rice's Code of Ordinances.

- 2 It shall be unlawful for any person to display or allow to be displayed for sale or lease at one time on any lot any motor vehicle; boat or vessel subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31; or camper shell designed for use on a motor vehicle unless such vehicle is owned by the actual occupant of the premises. However, no person or persons shall be permitted to display more than two, or combination thereof, of the following: motor vehicles; boats or other similar vessels subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31; or camper shells per lot at any time.

## SECTION 7. "R-2" SINGLE RESIDENTIAL DISTRICT

### A. PURPOSE

The "R-2" district permits a medium density development.

### B. PERMITTED USES

The uses permitted in the "R-2" District include those listed in "Schedule of Uses" found in **Section 16** hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with **Section 22** of this ordinance dealing with new and unlisted uses.

### C. SPECIAL USE PERMIT

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the Planning and Zoning Commission shall forward their recommendations of action for the City Council, after public hearing thereon. The City Council shall hold a public hearing and may authorize and grant the issuance of a specific use permit for such uses allowed in the schedule of uses in **Section 17** of this ordinance. The issuance of the permit by the City Council shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the conditional use of the land and buildings granted.

### D. AREA: YARD: HEIGHT: LOT COVERAGE: BUILDING SIZE

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in **Section 5, D** and any other applicable regulations as herein provided.

### E. PARKING REQUIREMENTS

Off-street parking space requirements shall be in accordance with the parking schedule found in **Section 16 and 19** hereof. Parking for at least two motor vehicles shall be provided by an enclosed garage or carport for each dwelling unit constructed after the date of adoption of this ordinance.

### F. SALES DISPLAYS PROHIBITED

- 1 Garage sales shall be permitted in accordance with Rice's Code of Ordinances.
- 2 It shall be unlawful for any person to display or allow to be displayed for sale or lease at one time on any lot any motor vehicle; boat or vessel subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31; or camper shell designed for use on a motor vehicle unless such vehicle is owned by the actual occupant of the premises. However, no person or persons shall be permitted to display more than two, or combination thereof, of the following: motor vehicles; boats or other similar vessels subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31; or camper shells per lot at any time.

**SECTION 8. "R-3" SINGLE FAMILY AND TWO FAMILY RESIDENTIAL DISTRICT.****A. PURPOSE**

The "R-3" Residential District is established to meet the needs for low and medium density residential development.

**B. PERMITTED USES**

The uses shall permitted in the "R-3" District in the "Schedule of Uses" found in **Section 16** hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with **Section 22** of this ordinance dealing with new and unlisted uses.

**C. SPECIAL USE PERMIT**

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the Planning and Zoning Commission shall forward their recommendations of action to the City Council, after public hearing thereon. The City Council shall hold a public hearing and may authorize and grant the issuance of a specific use permit for such uses allowed in the schedule of uses in **Section 17** of this ordinance. The issuance of the permit by the City Council shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the conditional use of the land and buildings granted.

**D. AREA: YARD: HEIGHT: LOT COVERAGE: BUILDING SIZE**

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in **Section 5.D** and any other applicable regulations as herein provided.

**E. PARKING REQUIREMENTS**

Off-street parking space requirements shall be in accordance with the parking schedule found in **Section 16 and 19** hereof. No enclosed or covered parking is specifically required, however, carports and garages are encouraged.

**F. SALES DISPLAYS PROHIBITED**

- 1 Garage sales shall be permitted in accordance with Rice's Code of Ordinances.
- 2 It shall be unlawful for any person to display or allow to be displayed for sale or lease at one time on any lot any motor vehicle; boat or vessel subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31; or camper shell designed for use on a motor vehicle unless such vehicle is owned by the actual occupant of the premises. However, no person or family shall be permitted to display more than one of the following at any time: motor vehicles, boats or vessels subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31, or camper shells.

**SECTION 9. "R-4" MULTIFAMILY RESIDENTIAL DISTRICT****A. PURPOSE**

The "R-4" Multifamily Residential District is established to meet the needs for medium to high density residential development where such areas are suitable for higher impact development and higher volume traffic while encouraging the provision of conveniently located rental accommodations.

**B. PERMITTED USES**

The uses shall permitted in the "R-3" District in the "Schedule of Uses" found in **Section 16** hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with **Section 22** of this ordinance dealing with new and unlisted uses.

**C. SPECIAL USE PERMIT**

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the Planning and Zoning Commission shall forward their recommendations of action to the City Council, after public hearing thereon. The City Council shall hold a public hearing and may authorize and grant the issuance of a specific use permit for such uses allowed in the schedule of uses in **Section 17** of this ordinance. The issuance of the permit by the City Council shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the conditional use of the land and buildings granted.

**D. AREA: YARD: HEIGHT: LOT COVERAGE: BUILDING SIZE**

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in **Section 5.D** and any other applicable regulations as herein provided.

**E. PARKING REQUIREMENTS**

Off-street parking space requirements shall be in accordance with the parking schedule found in **Section 16 and 19** hereof. No enclosed or covered parking is specifically required, however, carports and garages are encouraged.

**F. SALES DISPLAYS PROHIBITED**

(1) Garage sales shall be permitted in accordance with Rice Code of **Ordinances**.

(2) It shall be unlawful for any person to display or allow to be displayed for sale or lease at one time on any lot any motor vehicle; boat or vessel subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31; or camper shell designed for use on a motor vehicle unless such vehicle is owned by the actual occupant of the premises. However, no person or family shall be permitted to display more than one of the following at any time: motor vehicles, boats or vessels subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31, or camper shells.

**SECTION 10. "MH" MANUFACTURED HOME DISTRICT****A. PURPOSE**

The "MH" Manufactured Home District is intended to provide for quality manufactured home park subdivision development containing many of the characteristics and atmosphere of a conventional type single family residential subdivision. The minimum size of manufactured home park shall be five (5) acres.

**B. PERMITTED USES**

The uses permitted in the "MH" District include those listed in the "Schedule of Uses" found in **Section 16** hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with **Section 22** of this ordinance dealing with new and unlisted uses.

### C. SPECIFIC USE PERMIT

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the Planning and Zoning Commission shall forward their recommendations of action to the City Council, after public hearing thereon. The City Council shall hold a public hearing and may authorize and grant the issuance of a specific use permit for such uses allowed in the schedule of uses in **Section 17** of this ordinance. The issuance of the permit by the City Council shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the conditional use of the land and buildings granted.

### D. AREA: YARD: HEIGHT: LOT COVERAGE: AND BUILDING SIZE

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in **Section 5. D** and any other applicable regulations as herein provided.

### E. PARKING REQUIREMENTS

Off-street parking space requirements shall be in accordance with the parking schedule found in **Sections 16 and 19** hereof. No enclosed or covered parking is especially required, however, carports and garages are encouraged.

### F. SALES DISPLAYS PROHIBITED

- 1 Garage sales shall be permitted in accordance with Rice's Code of Ordinances.
- 2 It shall be unlawful for any person to display or allow to be displayed for sale or lease at one time on any lot any motor vehicle; boat or vessel subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31; or camper shell designed for use on a motor vehicle unless such vehicle is owned by the actual occupant of the premises. However, no person or persons shall be permitted to display more than two of the following, or combination thereof, per lot at any time: motor vehicles, boats or other similar vessels subject to registration under V.T.C.A., Parks & Wildlife Code, Chapter 31, or camper shells per lot at any time.

## SECTION 11. "LR" LOCAL RETAIL DISTRICT

### A. PURPOSE

The "LR" Restricted Commercial District has been established to limit commercial uses and operations within enclosed buildings and prohibiting the outside storage and display of goods, materials, vehicles and equipment. This district is intended to accommodate the basic shopping and service needs of residents and to provide retail and office space for merchants and financial, administrative, government and business services.

### B. PERMITTED USES

The uses permitted in the "LR" District include those listed in the "Schedule of Uses" found in **Section 16** hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with **Section 22** of this ordinance dealing with new and unlisted uses.

### C. SPECIFIC USE PERMIT

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the Planning and Zoning Commission shall forward their recommendations of action to the City Council, after public hearing thereon. The City Council shall hold a public hearing and may



authorize and grant the issuance of a specific use permit for such uses allowed in the schedule of uses in **Section 17** of this ordinance. The issuance of the permit by the City Council shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the conditional use of the land and buildings granted.

**D. AREA: YARD: HEIGHT: LOT COVERAGE: AND BUILDING SIZE**

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in **Section 5. D** and any other applicable regulations as herein provided.

**E. PARKING REQUIREMENTS**

Off-street parking space requirements shall be in accordance with the parking schedule found in **Sections 16 and 19** hereof. No enclosed or covered parking is specifically required.

**F. ALL COMMERCIAL OPERATIONS AND SALES TO BE ENCLOSED: EXCEPTION**

All commercial uses, operations, and sales, except for off-street parking and off-street loading facilities shall be conducted within completely enclosed buildings. However, the City Council may grant a permit to businesses for sidewalk sales for a period up to thirty (30) days.

**SECTION 12. "C" COMMERCIAL DISTRICT**

**A. PURPOSE**

The "C" Commercial District is established to accommodate most commercial activities that cannot generally be accommodated in "LR" District. This district permits the storage of goods, materials, equipment, machinery and vehicles outside of enclosed buildings.

**B. PERMITTED USES**

The uses permitted in the "C" Commercial District include those listed in the "Schedule of Uses" found in **Section 16** hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with **Section 22** of this ordinance dealing with new and unlisted uses.

**C. SPECIFIC USE PERMIT**

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the Planning and Zoning Commission shall forward their recommendations of action to the City Council, after public hearing thereon. The City Council shall hold a public hearing and may authorize and grant the issuance of a specific use permit for such uses allowed in the schedule of uses in **Section 17** of this ordinance. The issuance of the permit by the City Council shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the conditional use of the land and buildings granted.

**D. AREA: YARD: HEIGHT: LOT COVERAGE: BUILDING SIZE**

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in **Section 5. D** and any other applicable regulations as herein provided.

#### **E. PARKING REQUIREMENTS**

Off-street parking space requirements shall be in accordance with the parking schedule found in **Sections 16 and 19** hereof. No enclosed or covered parking is specifically required.

### **SECTION 13. "I" INDUSTRIAL DISTRICT**

#### **A. PURPOSE**

The "I" Industrial District is established to accommodate most industrial and manufacturing uses, provided such use is not noxious or offensive by reason of emission of odors, soot, dust, noise, fumes or vibrations.

#### **B. PERMITTED USES**

The uses permitted in the "I" Industrial District include those listed in the "Schedule of Uses" found in **Section 16** hereof. Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with **Section 22** of this ordinance dealing with new and unlisted uses.

#### **C. SPECIFIC USE PERMIT**

In order to allow for certain uses which, because of their nature or unusual character, cannot be unconditionally permitted in this district, yet would or could be an appropriate or compatible use under certain controlled circumstances and locations, the Planning and Zoning Commission shall forward their recommendations of action to the City Council, after public hearing thereon. The City Council shall hold a public hearing and may authorize and grant the issuance of a specific use permit for such uses allowed in the schedule of uses in **Section 17** of this ordinance. The issuance of the permit by the City Council shall be contingent upon reasonable and appropriate conditions and safeguards, including the length of time, so as to properly protect any adjacent property, use or neighborhood character, as well as insure the appropriate conduct of the conditional use of the land and buildings granted.

#### **D. AREA: YARD: HEIGHT: LOT COVERAGE: BUILDING SIZE**

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" found in **Section 5. D** and any other applicable regulations as herein provided.

#### **E. PARKING REQUIREMENTS**

The minimum off-street parking space requirements for manufacturing and industrial uses shall be one (1) space for each two (2) employees or one (1) space for each one thousand square feet of gross floor area of all buildings used for the such manufacturing or industrial purposes, whichever is greater. Such off-street parking shall also be in accordance with **Sections 16 and 19** hereof.

### **SECTION 14. "IH" INTERSTATE HIGHWAY 45 (OVERLAY) DISTRICT**

#### **A. PURPOSE**

The purposes of the Interstate Highway 45 Overlay Zoning District are:

- (1) To provide for the development of a combination of office, retail, service, commercial, industrial and manufacturing uses in a consistent manner throughout the Interstate Highway 45 Corridor through the City of Rice; and
- (2) To encourage building and site design that creates an alternative to the inconsistent development which would otherwise occur along the highway, through the utilization of standards for landscaping and building

setbacks, building materials and storage. The standards will enhance the visual image of the corridor and maximize traffic safety; and

(3) To implement an overlay district, whereby standards identified in this district are superimposed and shall supersede the regulations of any approved underlying suffix district which are in conflict with the provisions of this section.

#### B. BOUNDARIES

The Interstate Highway 45 overlay district shall be that corridor which is located along the entire length of Interstate Highway 45 through Rice. The overlay district shall include all property which is located within three hundred fifty (350) feet of the centerline of Interstate Highway 45 on both sides of the highway except for that portion on the west side of Interstate Highway 45 between Gilmer Street and Rush Street.

#### C. APPLICABILITY

(1) This subdivision regulations shall govern the development of land and structures within the Interstate Highway 45 corridor subject to the following:

- (a) Existing buildings are not required to comply with setback provisions.
- (b) Any use which was existing prior to **December 14, 1999** shall conform with the:
  - 1. Outside storage requirements within twenty-four months of such date;
  - 2. Screening requirements within thirty-six months;
  - 3. Landscape regulations when new building construction increases the overall square footage of the structures on the entire lot by thirty (30) percent or more of the square footage existing on such date of this article.
- (c) When any change of land use occurs, compliance with the outside storage and screening requirements will be required.
- (d) No parking in the right-of-way will be enforced after six months from **December 14, 1999**.
- (e) Compliance with **Subsection K** hereof will be required on the earliest of:
  - 1. The date on which ownership changes.
  - 2. The date on which the lease for the property expires or is resolved; or
  - 3. **December 14, 2003**.
- (f) Any signs existing prior to **December 14, 1999** shall conform with the signage regulations on the earliest of:
  - 1. When new building construction increases the overall square footage of the structures on the entire lot by thirty (30) percent or more of the square footage existing on **December 14, 1999**;
  - 2. Any change of land use or ownership;
  - 3. Any repair or improvement to the sign worth more than fifty (50) percent of the replacement value of the sign;
  - 4. Thirty-six months from **December 14, 1999**.

(2) The City Secretary may recommend increases to the board of adjustment for storage, signage, screening and/or landscaping requirements. The board of adjustments may authorize additional time to comply or grant variances because lot size or shape limitations preclude compliance.

#### D. PERMITTED UNDERLYING SUFFIX DISTRICT

Prior to the use of any land or building in the overlay district, a permitted underlying suffix zoning district shall be approved in accordance with **Section 16** of this ordinance in addition to the overlay district prefix. Permitted suffix zoning districts in the "Interstate Highway 45" Overlay District shall include "R-4," "LR," "C," and "I." The "R-1," "R-2," and "R-3," Districts are permitted only by a specific use permit.

#### E. BUILDING SETBACK REGULATIONS

- (1) For all permitted uses in the overlay district, the minimum building setback adjacent to Interstate Highway 45 shall be thirty-five feet (35') measured from the nearest right-of-way line of Interstate Highway 45.
- (2) For all public streets other than Interstate Highway 45, the minimum building setback adjacent to such street(s) shall be twenty-five (25) feet measured from the nearest right-of-way line of such street. However, if the suffix zoning district setback is more restrictive, the suffix zoning district shall apply.
- (3) For buildings not adjacent to a public street, the minimum side and rear building setback shall be in accordance with the suffix zoning district.

#### F. PARKING REGULATIONS

- (1) For each permissible use in the overlay district, all off-street parking shall be regulated in accordance with the regulations of **Section 16** and **Section 19** of this ordinance.
- (2) No parking facility, paved surface, or sealed surface shall occupy any portion of a landscape setback required by this division except as indicated in **Subsection J** hereof.
- (3) On-street parking is prohibited except for emergency purposes.
- (4) Parking in any right-of-way is prohibited except for emergency purposes.
- (5) Existing uses must comply with the above parking regulations within thirty-six months of **December 14, 1999**.

#### G. BUILDING CONSTRUCTION REGULATIONS

(1) Any building wall which faces Interstate Highway 45 shall have a minimum of eighty percent (80%) of the surface area of the exterior walls, excluding doors and windows, constructed from grade of the following permanent building materials:

- (a) Glass or natural stone;
- (b) Face brick or face tile;
- (c) Concrete;
- (d) Split face concrete masonry units (haydite block) or decorative pattern concrete block masonry units.

(2) The above building construction regulations shall not apply to any structure with a gross building area of one hundred thousand (100,000) or more square feet.

#### H. OUTSIDE STORAGE REGULATIONS

(1) All outside storage, when permitted by the regulations of both the suffix zoning district and the Interstate Highway 45 overlay district:

- (a) Shall not be located within thirty-five (35) feet of the nearest right-of-way line of Interstate Highway 45; and
- (b) Shall be screened so it cannot be seen from public streets and adjacent properties in accordance with **Subsection I Screening Regulations** hereof.

(2) Non-conforming uses shall comply with this subsection within thirty-six months after **December 14, 1999**.

#### I. SCREENING REGULATIONS

(1) Screening shall be required in accordance with the suffix zoning district.

(2) No fencing shall be permitted in any required landscape setback or building setback abutting a public street.

(3) All dumpsters shall be screened so that they cannot be seen from public streets. Such screening shall be accomplished by either enclosing the dumpster with a six foot screening device or planting large screening shrubs.

(4) All outside storage, when permitted by the suffix zoning district, shall be enclosed by a screening device.

(5) All required screening and fencing shall be a minimum of six (6) feet in height unless otherwise specified in this subsection.

(6) Special screening regulations for salvage yards are described in **Subsection M** hereof.

(7) Non-conforming uses shall comply with this subsection within twenty-four (24) months after **December 14, 1999**.

#### J. LOADING DOCK REGULATIONS FOR NEW CONSTRUCTION

The following applies to new construction:

(1) No loading dock shall be located or constructed facing Interstate Highway 45 except for loading docks for the delivery of finished goods to retail businesses which shall be permitted. All loading docks which are so permitted to face Interstate Highway 45:

- (a) Shall be totally screened from view from Interstate Highway 45 by an eight-foot high screening wall constructed of permanent structural materials as set forth in **Subsection G** hereof which has no openings except for driveway access; and
- (b) Shall not be located within fifty (50) feet of the nearest right-of-way line of Interstate Highway 45.

(2) No loading dock on the side wall of any building shall be located or constructed within fifty (50) feet of the nearest right-of-way line of Interstate Highway 45. When permitted, loading docks on such side walls shall be screened from Interstate Highway 45 by an eight-foot high screening wall constructed of permanent building materials set forth in **Subsection G** hereof.

(3) No loading dock shall be permitted or approved unless it is shown that it is set back a sufficient distance from any public street and right-of-way so that all loading operations, parking, storage, and vehicular maneuvering into or out of loading dock spaces shall take place outside of any public street and right-of-way.

#### K. LANDSCAPE STANDARDS

(1) Landscaping and irrigation system requirements. Landscaping and irrigation systems shall be required on all properties and developments in accordance with the terms and provisions of this subsection.

(2) Implementation and application of landscape requirements.

(a) The following shall be required prior to the issuance of a certificate of occupancy for any structure in the overlay district for which a building permit is issued after **December 14, 1999**:

1. A scaled landscape plan shall be submitted to the building official. These plans shall comply with the provisions of this subsection and shall indicate all landscaping features to meet the minimum turf and/or screening requirements. If there are no landscaping requirements to be fulfilled other than the requirement for turf, the landscape plan shall be waived.
2. All required landscaping shall be in place prior to the issuance of a certificate of occupancy unless the building official determines that weather or seasonal conditions warrant delay, in which case a reasonable time for the delay will be allowed.

(b) No existing use with a building permit which was issued prior to **December 14, 1999** shall be compelled to conform to this subsection unless new construction increases the ground floor area of the structures on the entire lot by thirty (30) percent or more of the square footage permitted on **December 14, 1999**.

(c) Existing concrete drive areas are not required to comply with the landscaping requirements until replacement of the concrete is accomplished.

(3) Landscaping requirements. All landscaping required or permitted by this subsection shall comply with the following provisions:

(a) The following landscape setbacks shall be required with respect to all properties located within the overlay district:

1. A minimum landscape setback shall be required on any property abutting Interstate Highway 45 in that area located within ten (10) feet of the nearest right-of-way line of Interstate Highway 45. However, this landscape setback may be reduced in width to seven and one-half (7-1/2) feet if:
  - i. Either a row of large screening shrubs with a required maximum spacing of four (4) to six (6) feet on center from containers of five (5) gallons, or small screening shrubs with a required maximum spacing of two (2) to three (3) feet on center from containers of one (1) gallon or larger is planted within the landscape setback; or
  - ii. A three-foot high masonry unit wall is built along the seven and one-half-foot landscape setback to screen the parking facilities. This wall shall be measured vertically from the finished grade of the parking surface nearest to the wall;
  - iii. A minimum landscape setback shall also be required on any property abutting any other public street which intersects Interstate Highway 45 in that area located within ten (10) feet of the nearest right-of-way line of such other street. This landscape

setback shall be seventy (70) feet in length along such public street (measured from the front property line as it intersects with the right-of-way line of Interstate Highway 45). This landscape setback may also be reduced in width to seven and one-half (7-1/2) feet in accordance with the standards for setback reduction set forth in provision (ii) above.

- (b) No parking facility shall be permitted within any landscape setback except as provided below:
1. Where a **deceleration/acceleration** lane and transition area are dedicated, a parking facility may encroach into the required landscape setback area abutting such lane and transition area, provided that no parking facility shall be located within five (5) feet of the nearest right-of-way line of Interstate Highway 45 or, as the case may be, of any other abutting public street.
  2. Nothing herein provided shall be construed as permitting any obstruction to view which may constitute a traffic hazard upon Interstate Highway 45 or any other public street. It shall be unlawful for any person, owner, or business to erect or place or cause to be erected or placed on any property under his possession or control any hedge, plant, tree, shrub, or other growth or any fence, wall, or other structure in such a manner or at such location as to constitute an obstruction to view creating a traffic hazard. On corners, when doubts may exist regarding site obstructions, approval of the city engineer will be required. All landscaping shall comply with these visibility.
- (c) No landscape setback shall be covered with any impervious surface, permeable pavers, gravel, or other paving materials except for those limited areas to be used for driveways or access-ways for ingress and egress to the property.
- (d) At a minimum, turf shall be placed and maintained in all landscape setback areas unless otherwise specified in this ordinance.
- (e) The property owner shall regularly weed, mow, irrigate, fertilize, prune, replace, and care for all planting located in his landscape setback areas. The property owner shall also ensure (including costs of plantings) that landscaping is maintained in a healthy growing condition.
- (f) Existing uses must comply with this subsection if overall ground floor square footage is increased by thirty (30) percent or more of the square footage permitted on **December 14, 1999**.

#### L. INFORMATION REGARDING LANDSCAPE PLANTS

- (1) Ground covers. The following list of ground covers and any other ground covers which are demonstrated to be drought resistant and provide a dense covering are recommended in all landscape setbacks.

<u>Common Name</u>	<u>Botanical Name</u>
Creeping Liriope	Liriope Spicata
Euonymous	Euonymous Fortunei
Purple Leaf Honeysuckle	Lonicera Halliana Japonica
Asian Jasmine	<b>Trachelospermum</b> Asiaticum
Chinese juniper	Juniperus Chinesis Sargentii
Shore Juniper	Juniperus Conferta
Tamarix Juniper	Juniperus Sabina
Santolina	Santolina Chamaecyparissus
	Santolina Virens
Vinca	Vinca Major
Mondgrass	Ophiopogon Japonicus

(2) Street trees. The street trees named below and any other tree which, when mature will attain a minimum height of twenty (20) feet and a six-inch caliper, which can be demonstrated to be drought resistant and possess compact root systems posing minimum danger to the integrity of public utilities are recommended in all landscape setbacks.

<u>Common Name</u>	<u>Botanical Name</u>
Shumard Red Oak	Quercus Shumardii
Texas Red Oak	Quercus Exana
Live Oak	Quercus Virginian
Bur Oak	Quercus Macrocarpa
Cedar Elm	Ulmus Crassifolia
Bald Cypress	Taxodium Distichum
Pond Cypress	Taxodium Distichum var. Nutans
Pecan	Carya Illinoionensis
Pistachio	Pistachio Chinensis
Lacebark Elm	Ulmus Paryifolia

(3) Flowering and ornamental trees. The following list of flowers and ornamental trees and any other flowering or ornamental trees which are demonstrated to be drought resistant and possess compact root systems posing minimum danger to the integrity of public utilities are recommended in all landscape setbacks.

<u>Common Name</u>	<u>Botanical Name</u>
Crepe Myrtle	Lacterstroemia Indica
Bradford Pear	Pyrus Calleryana Bradford
Mexican Plum	Prunus Mexicana
Deciduous Holly	Ilex Dedicua
Redbud-Oklahoma	Cercis Canadensis Oklahoma
Japanese Black Pine	Pinus Thunbergiana
Austrian Pine	Pinus Nigra
Desert Willow	Chilopsis Linearis
White Saucer Magnolia	Magnolia Heptapeta
Afgan Pine	Pinus Eldarica

(4) Tree. A tree is a woody single or multiple trunk stem which, at maturity, will obtain a minimum four-inch caliper.

(5) Tree caliper. The tree caliper of any tree shall be determined by measuring the trunk caliper (diameter) twelve (12) inches from existing grade.

#### M. SPECIAL CONDITIONS FOR SALVAGE YARDS

The following requirements shall apply to salvage yards which are located, in whole or in part, within the overlay district:

- (1) There shall be no outside storage or display located within fifty (50) feet of the nearest right-of-way line of Interstate Highway 45.
- (2) All outside storage, salvage, and/or junk shall be screened from view by an eight-foot high solid fence or wall which complies with the following requirements:
  - (a) All fences and walls shall form an opaque, solid barrier, without gaps or openings, except as provided below in subparagraph (c) below.
  - (b) All fences and walls shall be constructed of wood, masonry units, or approved metal.



- (c) Only openings in fences and walls which are necessary for reasonable access to the salvage yard shall be permitted, but shall be equipped with a solid gate or door constructed and maintained in accordance with the requirements for fences and walls set forth in this subsection. All openings so permitted shall be closed and securely locked at all times except for needed access.
  - (d) All fences and walls shall extend downward to within three (3) inches of the ground and shall also test plumb and square at all times.
  - (e) Any painting, staining, coating, covering, or other coloring of any fence or wall shall be of a uniform color in earth tones, except "rust."
  - (f) Any signs (as described in **Subsection O** hereof), other signs, and any advertising shall not be attached to or otherwise appear on any fence or wall.
- (3) Outside storage, salvage, and/or junk shall not be stacked, accumulated, kept, or otherwise placed above the solid fence or wall described in above.
- (4) Non-conforming salvage yards shall comply with this subsection on the earliest of the following:
- (a) The date on which ownership changes;
  - (b) The date on which the lease for the property terminates or is renewed;
  - (c) **December 14, 2004.**
- (5) To the extent of any conflict between this subsection and any other provision in any city ordinance, the provisions of this subsection shall prevail.

#### **O. SIGN REGULATIONS**

- (1) For the purposes of this subsection, the following devices shall be considered signs: pole, ground, wall, multi-tenant ground sign, flags, balloons, banners, streamers, and "attention getting" devices.
- (2) No sign shall be erected, placed, displayed or located in the overlay district, except in accordance with the provisions below:
- (a) Development signs shall be permitted in accordance with other provisions of the Rice Sign Ordinance.
  - (b) General business signs shall be permitted only in accordance with this subsection which shall control all business signs.
  - (c) Pole signs shall be permitted with the following requirements:
    - 1. Maximum square footage of sign. Forty (40) square feet.
    - 2. Maximum height. Forty (40) feet.
    - 3. Setback. Front edge may not encroach into right-of-way
    - 4. Lighting. Internal or external.
    - 5. Special requirements:
      - i. One (1) general business pole sign is permitted per lot if the lot has more than one hundred (100) feet of frontage along a public street or highway. Lots with less than one hundred (100) feet of frontage are not permitted a general business pole sign.
      - ii. Two (2) general business pole signs, each for use by a separate tenant only, may be permitted in lieu of provision (i) above on any lot which has more than three hundred ninety-nine (399) feet of frontage along a single public street or highway.

For the purpose of this subsection, each tenant using one (1) of these two (2) general business pole signs shall be either separated from all other tenants by full height demising walls, or located in a separate building and served by its own entrance. The minimum spacing between these two (2) general business pole signs above shall be not less than one hundred fifty (150) feet. No product line or tenant name shall be displayed on more than one (1) of these general business pole signs. The use of this subsection shall not be permitted when a multi-tenant sign is located on the lot. However, a ground sign complying with the specific requirements set forth in paragraph (f) pertaining to wall signs may be permitted in lieu of one (1) of these two (2) general business pole signs.

- iii. Reader boards may be incorporated into the permitted business pole sign, provided they do not exceed seventy-five (75) percent of the area of the sign.

(d) Ground signs.

1. Maximum height of sign: Eight (8) feet. When the configuration and use placement of a ground sign is only feasible in an area currently paved and actually used as a parking facility, the maximum height of the ground sign may be increased by the same amount that the base of the sign exceeds two (2) feet in height, provided, however, that the maximum height of the sign shall in no case exceed ten (10) feet.
2. Special requirements.
  - i. One (1) general business ground sign shall be permitted per lot, per street or highway front, provided there are no general business pole signs on the lot. Maximum square footage shall be seventy (70) feet.
  - ii. Two (2) general business ground signs may be permitted in lieu of above provision (i) above on any lot which has more than three hundred ninety-nine (399) feet of frontage along a single public street or highway. Each of these two (2) general business ground signs shall have a maximum square footage of fifty (50) feet. The minimum separation between these two (2) general business ground signs shall not be less than one hundred fifty (150) feet. The same tenant name may not appear on both signs.
  - iii. Setback for sign. Ten (10) feet.
  - iv. Lighting for sign. Internal or external.

(e) Multi-tenant ground signs.

1. Maximum height of sign. Fifteen (15) feet. When the configuration and use of the property is such that the placement of a multi-tenant ground sign is only feasible in an area currently paved and actually used as a parking facility, the maximum height of the sign may be increased by the dimension that the base of the sign exceeds two (2) feet in height, provided, however, that the maximum height of the sign shall in no case exceed seventeen (17) feet. Portions of the base of the multi-tenant ground sign which are less than four (4) feet above grade shall not be used in the calculation of the maximum square footage for multi-tenant ground signs set forth above in this subsection.
2. Special requirements:
  - i. Multi-tenant ground signs shall only be permitted for shopping centers, office developments and industrial parks.
  - ii. One (1) multi-tenant ground sign shall be permitted per lot, per street front, provided there are no other general business free standing signs on the lot.

- iii. Two (2) multi-tenant ground signs may be permitted in lieu of provision (ii) above on any lot which has more than three hundred ninety-nine (399) feet of frontage along a single public street or highway. Each of these two (2) multi-tenant ground signs, however, shall have a maximum square footage of one hundred twenty-five (125) square feet. The minimum separation between these two (2) multi-tenant ground signs shall not be less than one hundred fifty (150) feet. The same tenant name or product line may not appear on both of these two (2) multi-tenant ground signs.
  - iv. Center identification and any tenant identification in any permitted multi-tenant ground sign shall each be limited to a maximum area of thirty-five (35) square feet.
  - v. Any shopping center, office, development, and industrial center/park which is composed of more than one (1) parcel or lot shall be considered to be one (1) lot for the purpose of this subsection and shall be entitled to only one (1) multi-tenant sign per street front, for the development as a whole. Separate parcels with no common access or common parking may be considered separately for this subsection.
- (f) Wall signs shall be permitted with the following requirements:
- 1. Maximum square footage of sign. Twenty-five (25) percent of total wall area; but not to exceed seventy-five (75) percent of width of associated tenant space.
  - 2. Maximum height of sign. Not to exceed height of the structure which contains the wall.
  - 3. Setback for sign. N/A
  - 4. Lighting for sign. Internal or external.
  - 5. Special requirements:
    - i. Reader boards may be incorporated into the permitted business wall sign, provided they do not exceed seventy-five (75) percent of the area of the sign.
- (h) Flag on pole signs shall be permitted with the following requirements:
- 1. Maximum square footage of sign. N/A
  - 2. Maximum height of sign. Thirty-five (35) feet.
  - 3. Setback for sign. A minimum of seven and five-tenths (7.5) feet.
  - 4. Lighting for sign. External
  - 5. Spacing of signs. None.
  - 6. Special requirements:
    - i. Only flags which are not advertising displays may be displayed. All other flags, including corporate flags, business logo, or identity flags, pennants, streamers, colored flags and similar mediums intended to attract attention, are prohibited.
    - ii. No more than one (1) identical or substantially similar flag shall be permitted per street front.
- (i) Balloons and streamers.
- 1. Streamers and balloons which are less than three (3) cubic feet in volume (when inflated) as well as one (1) balloon which is greater than three (3) cubic feet in volume (when inflated) per business may be displayed for grand openings only, but are otherwise prohibited.
  - 2. The use of streamers and balloons is limited to a one (1) time use of not more than thirty-one (31) consecutive days.

3. Time limit for balloons and streamers is thirty (30) consecutive days with a ninety (90) day maximum per year.
- (j) Banners. Banners attached to buildings may be displayed for grand openings or special sales only with the following requirements:
  1. Maximum square footage of sign. Fifty (50) square feet.
  2. Maximum height of sign. N/A
  3. Setback for sign. N/A
  4. Lighting for sign. External only.
  5. Spacing for sign. Only one (1) banner per business. Banners must be placed on the wall of the space or building of the tenant business for which the banner advertises.
  6. Time Restrictions. Time limit for grand opening or sale banners shall be thirty (30) consecutive days. no combination of grand opening and sales banner displays shall exceed ninety (90) days in a calendar year.
  7. Special requirements:
    - i. Banners shall be properly secured at all points of attachment to an element of the building. A fence or railing shall not be considered to be a building element.
- (k) Attention-getting devices. All forms and types of off-premise advertising, roof signs, flashing signs, motion signs, portable signs, portable trailer signs, and any other "attention-getting devices" shall be prohibited in the overlay district.
- (3) All signs shall be subject to the requirements of the City's Sign Ordinance.
- (4) Non-conforming signs must be removed or brought into compliance with above provisions on the earliest of the following:
  - (a) When the existing sign is replaced;
  - (b) When the ownership changes;
  - (c) Date on which the lease for the property terminates or is renewed;
  - (d) **December 14, 2004.**

## SECTION 15. "FP" FLOOD PLAIN (OVERLAY) DISTRICT

### A. PURPOSE

To provide for the appropriate use of land which has a history of inundation or is determined to be subject to flood hazard and to promote the general welfare and to provide protection from flooding, the "FP" District is hereby established. This district may also be coextensive with or overlay any or all of the other zoning districts or portions thereof as provided for herein.

Where a tract of land or portion thereof is zoned for the uses of one of the other zoning districts and is also zoned "FP" District, the restrictions contained in the "FP" District shall take precedence over the other zoning districts and shall be the controlling regulations for that district or portion of that district.

### B. PERMITTED USES

The following uses shall be permitted in the "FP" District:

- 1 Arboretum or Botanical Garden;
- 2 Agricultural activities, including the ordinary cultivation or grazing of land and legal and permitted types of animal husbandry;
- 3 Christmas Tree Sales;
- 4 Orchard;
- 5 Park, Playground or Golf Course;
- 6 Parking Facilities;

- 7 Freight or service buildings; and/or
- 8 Wildlife Sanctuary or Preserve.

Any use not expressly authorized and permitted herein is expressly prohibited in this district, unless otherwise allowed in conformance with **Section 22** of this ordinance dealing with new and unlisted uses.

#### C. SPECIFIC USES WHICH MAY BE PERMITTED

The following uses may be allowed in an "FP" District only if expressly authorized by the Planning and Zoning Commission as a conditional use permit and subject to the provisions of **Section 17**:

- 1 Carnival or Circus;
- 2 Excavation and Mining Operation;
- 3 Produce Market;
- 4 Stadium or Sports Arena;
- 5 Theater, drive in type;
- 6 Shooting Range;
- 7 Storage Facility or Warehouse;
- 8 Rodeo Arena;
- 9 Stable for Horses and Livestock;
- 10 Car Wash;
- 11 Granary or Gin;
- 12 Public Utilities, including Water Treatment Plant, Water Pump Station, Water Reservoir, Water Tower, Water Well, Sewage Treatment Plant, Sewage Lift Station, Septic Tank, Electrical Substation, Gas Odorizing Station and Gate Station provided precautions have been adequately taken to prevent the intrusion of flood waters and construction complies with applicable state and federal standards;
- 13 Radio and Television Transmitter or Satellite Dish;
- 14 Telephone Exchange; and/or
- 15 Recreational Vehicle Park.

#### D. AREA. YARD. HEIGHT. LOT COVERAGE. BUILDING SIZE

The requirements regulating the minimum lot size, minimum yard sizes (front, side and rear), maximum building height, maximum percent of lot coverage by buildings and the minimum size of buildings, as pertains to this district, shall conform with the provisions of the "Schedule of District Regulations" and any other applicable regulations as herein provided.

#### E. GENERAL REGULATIONS

No building or structure shall be erected in any "FP" District unless such building or structure has been constructed in accordance with the flood damage prevention regulations established in Rice's Code of Ordinances.

Owners of buildings in flood-prone areas are encouraged to participate in the flood insurance program made available by insurance companies with the support of the Federal Insurance Administration of the Department of Housing and Urban Development (HUD).

#### F. CITY NOT LIABLE FOR ANY DAMAGES

- 1 The fact that land is, or is not, within a district having a flood plain designation, shall not be interpreted as assurance that such land or area is, or is not, subject to periodic flooding. The city shall not be held responsible for failure to designate any lands as flood-prone areas and shall not be responsible for any such damages caused by any such failure or action.
- 2 No building permit shall be issued for the construction of any building or structure in a flood plain designated area unless and until deed restrictions are executed in favor of the city reciting that the owner and his successors will indemnify and hold harmless the city from any damages caused by flooding.

**SECTION 16 SCHEDULE OF USES AND OFF-STREET PARKING REQUIREMENTS****A. SCHEDULE OF USES AND OFF-STREET PARKING ESTABLISHED**

Land and buildings in each of the following classified districts may be used for any of the following listed uses but no land shall hereinafter be used and no building or structure shall hereinafter be occupied, used, erected, altered, removed, placed, demolished, or converted which is arranged or designed to be used for other than those uses specified for the district in which it is located as set forth by the following schedule of uses:

X	Designates use permitted in district
	Designates use prohibited in district
S	Use permitted with specific use permit

NOTE: Gross floor area is abbreviated as g.f.a. Also, any numbers in parenthesis represents a footnote and all footnotes are found at the end of this schedule of uses.

<b>Residential Use:</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>MH</b>	<b>LR</b>	<b>C</b>	<b>I</b>	<b>IH</b>	<b>FP</b>	<b>PARKING</b>
Single Family Dwelling	X	X	X	X	X	S	S	S	S	S	2/dwelling unit
Two-Family Dwelling			X	X	X	S	S	S	S	S	2/dwelling unit
Three-Family Dwelling				X		X	X	S	S	S	2/dwelling unit
Four-Family Dwelling				X		X	X	S	S	S	2/dwelling unit
Apartment or Multifamily Bldg.				X		X	X	S	S	S	1.5/dwelling unit
Manufactured Home					X					S	2/dwelling unit
Industrialized Housing		X	S	S	X					S	2/dwelling unit
Manufactured Home Park					X						2/dwelling unit
Townhouse				X					S		2/dwelling unit
Condominium				X					S		2/dwelling unit
Trailer Camp or Park					S						1/dwelling unit
Recreational Vehicle					X	S			S		1/dwelling unit
Boarding (Rooming) House				X							1/dwelling room
Child Day Care Home	X	X	X	X	S	S	S		S		2/dwelling
Group Home	S	S	S	S							2/dwelling
Group Day Care Home	S	S	S	S							Specified by SUP
Halfway House	S	S	S	S	S						1/2 occupants
Guest House or Quarters	X	X	X	S	S						1/dwelling unit
Accessory Building	X	X	X	X	X						None
Tennis Court (private)	X	X	X	X	X						None
Swimming Pool (private)	X	X	X	X	X						None
Home Occupation	(1)	(1)	(1)	(1)	(1)				(1)	(1)	None

<b>Agriculture/Ranch Uses:</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>MH</b>	<b>LR</b>	<b>C</b>	<b>I</b>	<b>IH</b>	<b>FP</b>	<b>PARKING</b>
Farm	X										2/dwelling unit
Farmer's Market							X		S		2/stall
Orchard	X	X									1/employee
Produce Stand						X	X		S		1/200 g.f.a.
Ranch	X										2/dwelling unit
Rodeo Ground, Arena								S			Specified by SUP
Stable, Private	X	X									None
Stable, Public								X			1/2 stalls

Utility/Solid Waste Uses:	R-1	R-2	R-3	R-4	MH	LR	C	I	IH	FP	PARKING
Cable TV Lines	X	X	X	X	X	X	X	X	X	X	None
Electric Substations	S	S	S	S	S	S	S	S	S	S	None
Gas Line (6" or larger)	S	S	S	S	S	S	S	X	S	S	None
Gas Regulating/Gate Station	S	S	S	S	S	S	S	X	S	S	None
Microwave Tower	S	S	S	S	S	S	S	X	S	S	None
Radio and Television Tower	S	S	S	S	S	S	S	X	S	S	None
Railroad Yard								X			1 per employee
Recycling Center							S	X			1 per employee
Refuse Transfer Station								S			1 per employee
Sewer Lift Station	X	X	X	X	X	X	X	X	X	X	None
Telephone Exchange	S	S	S	S	S	X	X	X	X	S	None
Telephone Poles and Lines	X	X	X	X	X	X	X	X	X	X	None
Utility Mains and Lines	X	X	X	X	X	X	X	X	X	X	None
Wastewater Treatment Plant	S	S	S	S	S	S	S	X	S	S	2 minimum
Water Pump Station	X	X	X	X	X	X	X	X	X	X	None
Water Storage Tank	X	X	X	X	X	X	X	X	X	X	None
Water Treatment Plant	S	S	S	S	S	S	S	X	S	S	2 minimum
Water Well	S	S	S	S	S	S	S	S	S	S	None

Gov't & Institutional Uses:	R-1	R-2	R-3	R-4	MH	LR	C	I	IH	FP	PARKING
Athletic Field or Stadium	S	S	S	S	S	S	X	X	X	S	1/4 seats
Auditorium or Amphitheater						X	X	X	S	S	1/4 seats
Cemetery or Mausoleum	S	S	S	S	S	S	S	S			None
Church or Rectory	X	X	X	X	X	X	X	X	X	S	1/4 seats
College or University	S	S	S	S	S	X	X	X	X	S	1/3 students
Community Center	S	S	X	X	S	X	X	X	X	S	1/200 g.f.a.
Convalescent Center						S	X	S			1/3 beds
Fire Station	X	X	X	X	X	X	X	X	X	S	2/bay
Hospital	S	S	S	S	S	S	X	X	S		1/bed
Library	X	X	X	X	X	X	X	X	X		1/300 g.f.a.
Museum or Art Gallery	S	S	S	S	S	X	X	S	S		1/200 g.f.a.
Park or Playground	X	X	X	X	X	X	X	X	X	X	1/2000 site area
Police Station	S	S	S	S	S	X	X	X	X		2 visitor spaces
Post Office						S	X	X	S		1/400 g.f.a.
Prison or Penitentiary								S			1/6 cells
Sanitarium								S			1/6 beds
School (nursery or kindergarten)	S	S	S	S	S	X	X	S	S		1/10 children
School (trade or business)						X	X	X	X		1/3 students
School (elementary or middle)	X	X	X	X	X	X	X	S	S		1/15 students
School (high school)	X	X	X	X	X	X	X	S	S		1/3 students
Government Office						X	X	S	S		1/300 g.f.a.
Swimming Pool (public)	S	S	S	S	S	X	X	S	S		10 minimum
Tennis Court (public)	S	S	S	S	S	X	X	S	S		2/court
Religious Camp	S	S	S	S	S	S	X	X	S		1/3 beds

Commercial Uses:	R-1	R-2	R-3	R-4	MH	LR	C	I	IH	FP	PARKING
Amusement Park (outside)							X	X	S	S	1/500 site area
Animal Shelter							X	X			1/500 g.f.a.
Antique Shop						X	X		X		1/200 g.f.a.
Apparel or Clothing Store						X	X		X		1/200 g.f.a.
Appliance Repair Shop						X	X	X	X		1/400 g.f.a.
Appliance Store (retail)						X	X		X		1/400 g.f.a.
Arcade						X	X		X		1/200 g.f.a.
Art Supply Store						X	X		X		1/300 g.f.a.
Athletic or Fitness Club						X	X		X		1/200 g.f.a.
Auction						X	X	X	X		1/200 g.f.a.
Audio Store (retail)						X	X		X		1/200 g.f.a.
Auto Inspection Station						S	X	X	X		2/service bay
Auto Paint & Body Shop							X	X	S		1/200 g.f.a.
Auto Rental						S	X	X	X		1.25/rental car
Auto Repair Garage						S	X	X	S		3/service bay
Auto Sales Lot						S	X	X	X		1/1000 site area
Bakery (retail)						X	X	S	X		1/200 g.f.a.
Bank or Financial Institution						X	X	X	X		1/300 g.f.a.
Bed & Breakfast Accommodation	S	S	S	S		S	X		S		1/guest room
Barber or Beauty Shop	S	S	S	S	S	X	X		X		1/chair
Bicycle Sales & Repair						X	X		X		1/300 g.f.a.
Boat Sales							X	X	X		1/400 g.f.a.
Boat Storage							X	X	X		1/1000 site area
Book Store						X	X		X		1/200 g.f.a.
Bowling Alley						X	X	S	X		6/lane
Building Materials/Lumber Yard							X	X	X		1/500 g.f.a.
Bus Terminal						S	X	X	X		1/300 g.f.a.
Business Office						X	X	X	X		1/300 g.f.a.
Cabinet Shop						S	S	X	S		1/400 g.f.a.
Camera Store (retail)						X	X		X		1/200 g.f.a.
Car Wash						S	X	X	S		1/wash bay
Carnival or Circus						S	S	S	S		Specified by SUP
Carpet Store (retail)						X	X		X		1/400 g.f.a.
Cemetery Monument Sales							X	X	S		1/400 g.f.a.
Child Care Center or Facility	S	S	S	S		S	X	S	S		1/6 children
Christmas Tree Sales						X	X	X	X		1/1000 site area
Computer Store (retail/service)						X	X		X		1/200 g.f.a.
Contractor Yard (outside storage)						S	X	X	S		1/2000 site area
Dental Clinic or Office						X	X		X		1/200 g.f.a.
Department Store						X	X		X		1/200 g.f.a.
Electrical Sales & Service						X	X		X		1/400 g.f.a.
Electronics Store (retail)						X	X		X		1/200 g.f.a.
Employment Agency						X	X		X		1/200 g.f.a.
Farm Implement Sales							X	X	S		1/400 g.f.a.
Feed Store							X	X	S		1/400 g.f.a.
Feed Store with animal sales							S	S	S		1/400 g.f.a.
Fire Wood Sales						S	X	X	S		1/1000 site area
Florist Shop						X	X		X		1/300 g.f.a.
Flea Market (inside)							S	S	S		1/200 g.f.a.
Flea Market (outside)						S	X	X	S	S	1/1000 site area
Fraternity/Sorority Lodge						X	X		X		1/200 g.f.a.
Furrier						X	X		X		1/400 g.f.a.



Commercial Uses:	R-1	R-2	R-3	R-4	MH	LR	C	I	IH	FP	PARKING
Furniture Store (retail)						X	X		S		1/400 g.f.a.
Game Hall						S	X	X			1/100 g.f.a.
Gift or Novelty Shop						X	X		S		1/200 g.f.a.
Go-Cart Track							X	X	S	S	1/go-cart
Golf Course	S	S								X	2/green
Golf Course, miniature						S	X	X	S	S	1.5/hole
Golf Driving Range	S	S						X	S	X	1/driving tee
Grocery Store						X	X		S		1/200 g.f.a.
Gun Shooting Range (indoor)								X			1/500 g.f.a.
Gunsmith Shop						X	X	X	S		1/300 g.f.a.
Hardware Store						X	X		S		1/400 g.f.a.
Heating/AC Sales & Service						S	X	X	S		1/400 g.f.a.
Heavy Equipment Sales							X	X	S		1/1000 site area
Hobby Shop						X	X	X	S		1/200 g.f.a.
Hotel or Motel						S	X	X	X		1/guest room
Insurance Sales Office						X	X		S		1/400 g.f.a.
Jewelry Store						X	X		S		1/200 g.f.a.
Kennel							S	X			1/400 g.f.a.
Laboratory, Medical or Dental						S	X	X	S		1/400 g.f.a.
Laundry or Dry Cleaners						X	X	X	S		1/400 g.f.a.
Lawnmower Sales & Service						S	X	X	S		1/400 g.f.a.
Leather Goods Shop (retail)						X	X		S		1/400 g.f.a.
Lithographic Shop						X	X		S		1/300 g.f.a.
Locksmith Shop						X	X		S		1/300 g.f.a.
Meat Market						X	X		S		1/300 g.f.a.
Medical Clinic or Office						X	X		S		1/300 g.f.a.
Mini-warehouse					S	S	X	X			1/500 g.f.a.
Manufactured Home Sales Lot							X	X	S		1/1000 site area
Massage Establishment							S	S			1/200 g.f.a.
Mortuary or Funeral Home						S	X	X	S		1/3 sanctuary seats
Motorcycle Sales							X	X			1/200 g.f.a.
Motorcycle Sales							X	X	S		1/employee
Movie Theater (drive-in)							X	X	S		1/3 seats
Movie Theater (indoor)						X	X		S		1/200 g.f.a.
Musical Instrument Store						X	X		S		1/200 g.f.a.
Newspaper Office						X	X				1/200 g.f.a.
Newsstand							X	X	S		1/100 g.f.a.
Nightclub or Dance Hall						X	X		S		1/200 g.f.a.
Office Supply Store						X	X		S		1/200 g.f.a.
Optical Clinic or Office						X	X		S		1/200 g.f.a.
Optical Dispensary Store						X	X		S		1/200 g.f.a.
Paint Sales Store (retail)						X	X		S		1/200 g.f.a.
Pawnshop						S	X	X			1/200 g.f.a.
Pet Grooming Shop						X	X		S		1/200 g.f.a.
Pet Shop						X	X		S		1/200 g.f.a.
Pharmacy or Drug Store						X	X		S		1/200 g.f.a.
Photography Studio						X	X		S		1/200 g.f.a.
Picture Framing Shop						X	X		S		1/200 g.f.a.
Plant Nursery						S	X	X	S	S	1/400 g.f.a.
Plumbing Sales & Service						S	X	X	S		1/400 g.f.a.
Pool or Billiard Hall						S	X		S		1/100 g.f.a.
Print Shop						X	X	X	S		1/400 g.f.a.
Private Club (serving alcohol)						S	X	X	S		1/100 g.f.a.

Commercial Uses:	R-1	R-2	R-3	R-4	MH	LR	C	I	IH	FP	PARKING
Professional Offices						X	X	X	S		1/300 g.f.a.
Racquetball Court						X	X	X	S		2/Courts
Real Estate or Leasing Office	(2)	(2)	(2)	(2)	(2)	X	X	(2)	(2)		1/300 g.f.a.
Recording Studio						X	X		S		1/300 g.f.a.
Recreational Vehicle Storage						S	X	X	S		1/400 g.f.a.
Rental Store						X	X	X	S		1/400 g.f.a.
Restaurant or Cafe (inside)						X	X	X	S		1/3 seats
Restaurant (drive-in)						X	X	X	S		1/100 g.f.a.
Restaurant (kiosk)						X	X	X	S		1/100 g.f.a.
Second Hand Store						X	X	X			1/200 g.f.a.
Service Station						S	X	X	S		4 minimum
Sexually Oriented Business								S			Specified by SUP
Shoe or Boot Store						X	X		S		1/200 g.f.a.
Shopping Center or Mall						X	X	X	X		1/200 g.f.a.
Sign Shop						S	X	X			1/400 g.f.a.
Skating Rink						S	X	X	S		1/400 g.f.a.
Snow Cone Stand						X	X				2 minimum
Sporting Goods Store						X	X		S		1/200 g.f.a.
Tack Store							X	X	S		1/400 g.f.a.
Tailor or Seamstress Shop						X	X	X	S		1/300 g.f.a.
Tanning Salon						X	X		S		1/200 g.f.a.
Tattoo Shop						S	X				1/200 g.f.a.
Taxidermist							X	X	S		1/400 g.f.a.
Tire Sales & Repair						S	X	X	S		1/400 g.f.a.
Title and Abstract Office						X	X		S		1/200 g.f.a.
Tool & Equipment Rental							X	X	S		1/400 g.f.a.
Trailer Sales and Rental							X	X	S		1/1000 site area
Travel Agency						X	X	X	S		1/300 g.f.a.
Truck Rental							X	X	S		1/400 g.f.a.
Truck Repair							X	X	S		1/400 g.f.a.
Truck Sales							X	X	S		1/1000 site area
Truck Wash						S	X	X	S		2/wash bay
Upholstery Shop						S	X	X			1/400 g.f.a.
Veterinary Clinic							X	X	S		1/300 g.f.a.
Veterinary Hospital							S	S			1/300 g.f.a.
Video Store						X	X		S		1/200 g.f.a.
Washateria (self-service)						X	X				1/wash machine

Industrial Uses:	R-1	R-2	R-3	R-4	MH	LR	C	I	IH	FP	PARKING
Airport							S	S			Specified by SUP
Ammonia Manufacturing								S			See Sec. 19-E
Apparel Manufacturing								X			See Sec. 19-E
Appliance Manufacturing								X			See Sec. 19-E
Artificial Limb Manufacturing								X			See Sec. 19-E
Asphalt Batching Plant								S			See Sec. 19-E
Bakery, Commercial							X	X			See Sec. 19-E
Bleach Manufacturing								S			See Sec. 19-E
Bookbinding & Publishing							S	X			See Sec. 19-E
Bottling Plant							S	X			See Sec. 19-E
Box Manufacturing								X			See Sec. 19-E

Industrial Uses:	R-1	R-2	R-3	R-4	MH	LR	C	I	IH	FP	PARKING
Brewery								X			See Sec. 19-E
Brick or Tile Manufacturing								X			See Sec. 19-E
Canning Operation								X			See Sec. 19-E
Carpet Manufacturing								X			See Sec. 19-E
Chemical Storage or Mfg.								S			See Sec. 19-E
Chlorine Manufacturing								S			See Sec. 19-E
Cold Storage Plant								X			See Sec. 19-E
Concrete Batching Plant							S	X			See Sec. 19-E
Concrete Product Casting Plant								X			See Sec. 19-E
Contractor Yard (outside storage)							S	X	S		See Sec. 19-E
Creamery								X			See Sec. 19-E
Creosote Manufacturing								S			See Sec. 19-E
Distribution Center (small)						S	X	X			See Sec. 19-E
Distribution Center (large)							S	X			See Sec. 19-E
Distillation Plant								S			See Sec. 19-E
Dyeing Plant								X			See Sec. 19-E
Electrical Components Mfg.								X			See Sec. 19-E
Electroplating								X			See Sec. 19-E
Envelope Manufacturing								X			See Sec. 19-E
Explosives Manufacturing								S			See Sec. 19-E
Fertilizer Manufacturing								S			See Sec. 19-E
Fiberglass Manufacturing								X			See Sec. 19-E
Fireworks Manufacturing								S			See Sec. 19-E
Food Processing								X			See Sec. 19-E
Foundry								S			See Sec. 19-E
Freight Terminal, Motor								X			See Sec. 19-E
Freight Terminal, Railroad								X			See Sec. 19-E
Furniture Manufacturing								X			See Sec. 19-E
Garment Manufacturing							S	X			See Sec. 19-E
Glass Manufacturing								X			See Sec. 19-E
Glue Manufacturing								S			See Sec. 19-E
Granary or Gin								X			See Sec. 19-E
Gypsum Manufacturing								S			See Sec. 19-E
Heliport or Helistop								S			See Sec. 19-E
Ice Cream Plant								X			See Sec. 19-E
Ice Plant								X			See Sec. 19-E
Incinerator								S			See Sec. 19-E
Insecticide Processing								S			See Sec. 19-E
Junkyard								S			See Sec. 19-E
Laundry Plant								X			See Sec. 19-E
Light Fabrication Plant								X			See Sec. 19-E
Machine Shop								X			See Sec. 19-E
Marble Manufacturing								X			See Sec. 19-E
Mattress Manufacturing								X			See Sec. 19-E
Meat Processing Plant								S			See Sec. 19-E
Metal Fabrication								X			See Sec. 19-E
Metal Stamping and Extrusion								X			See Sec. 19-E
Mining, Extraction Operation								S			See Sec. 19-E
Monument Works								X			See Sec. 19-E
Packaging Operation							S	X			See Sec. 19-E
Paint Manufacturing								X			See Sec. 19-E
Pallet Manufacturing								X			See Sec. 19-E

Industrial Uses:	R-1	R-2	R-3	R-4	MH	LR	C	I	IH	FP	PARKING
Paper Mill								X			See Sec. 19-E
Paper Products Manufacturing								X			See Sec. 19-E
Pesticide Processing								S			See Sec. 19-E
Petroleum Products (wholesale)								S			See Sec. 19-E
Petroleum Refinery or Storage								S			See Sec. 19-E
Pharmaceutical Manufacturing								X			See Sec. 19-E
Planing Mill								X			See Sec. 19-E
Plastic Product Manufacturing								S			See Sec. 19-E
Pottery Manufacturing								X			See Sec. 19-E
Poultry Processing Plant								S			See Sec. 19-E
Radio Transmitting Station							S	X			See Sec. 19-E
Rendering Plant								S			See Sec. 19-E
Rock Crushing Plant								S			See Sec. 19-E
Salvage Yard								S			See Sec. 19-E
Smelter Plant								S			See Sec. 19-E
Tanning Plant								S			See Sec. 19-E
Television Transmitting Station						S	S	X			See Sec. 19-E
Temporary Construction Office	S	S	S		S	S	S	X			See Sec. 19-E
Textile Manufacturing							S	X			See Sec. 19-E
Tire Manufacturing								S			See Sec. 19-E
Tire Recapping Plant								S			See Sec. 19-E
Vehicle Conversion Facility							X	X			See Sec. 19-E
Warehouse							S	X	<b>S</b>		See Sec. 19-E
Welding Shop							S	X			See Sec. 19-E

## Notes to Schedule of Uses:

- (1) Home occupations are permitted when in accordance with Section 18 hereof. Home occupations not specifically permitted in Section 18 may be permitted only with a specific use permit.
- (2) Allowed for a period of one year or until the development is sold out, whichever is longer.

**SECTION 17 SPECIFIC USE PERMITS****A. STANDARDS**

No application for a specific use permit shall be granted by the City Council unless the Council finds all of the following conditions are present:

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

**B. CONDITIONS AND GUARANTEES**

Prior to the granting of any specific use permit, the City Council may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to protect the public health, safety and general welfare of the community and to secure compliance with the standards and requirements specified in Subsection A above. In all cases in which specific use permits are granted, the City Council shall require such evidence and written guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

**C. EFFECT OF DENIAL OF APPLICATION**

No application for a specific use permit which has been denied wholly or in part by the City Council shall be re-submitted for a period of ninety (90) days from the date of said denial.

**SECTION 18. HOME OCCUPATIONS****A. PURPOSE**

The purpose of this section is to permit the conduct of home occupations which are not incompatible with the neighborhoods in which they are located.

**B. GENERAL PROVISIONS FOR HOME OCCUPATIONS**

Home occupations are permitted as an accessory use in the residential districts and are subject to the requirements of that district in which the use is located, in addition to the following:

- 1 Only the person or persons residing in the dwelling shall be engaged in the home occupation;
- 2 The home occupation shall be conducted only within the enclosed area of the dwelling unit, garage, or accessory buildings. No storage or display of materials, goods, supplies, or equipment related to the operation of home occupation shall be visible outside any structure located on the premises;
- 3 Not more than twenty-five percent (25%) of the living area of the principal building, up to a maximum of four hundred (400) square feet, shall be devoted to the home occupation;
- 4 There shall be no exterior alterations which change the character thereof as a dwelling or exterior evidence of the home occupation other than one sign not over one (1) square foot advertising the home occupation. Such sign shall be placed flat against a wall or door or displayed in a window;
- 5 No home occupation shall create smoke, fumes, glare, noise, dust, vibration, electrical interference or any other nuisance not normally associated with the average residential use in the district;
- 6 No home occupation shall become a fire hazard;
- 7 The home occupation shall not create any significant increase in vehicular flow or parking and shall not create greater pedestrian traffic than normal for the residential district;
- 8 No home occupation shall cause a significant increase in the use of any utilities, or generate trash or refuse beyond the average of the residences in the neighborhood; and
- 9 No advertising sign may be placed on the premises other than the permitted sign in item (4) above.
- 10 Occupations that may be considered for a home occupation approval include:
  - (a) Accountant,
  - (b) Artist,
  - (c) Author,

- (d) Business or management consultant,
- (e) Child care of no more than six (6) children,
- (f) Dressmaking,
- (g) Handicraft,
- (h) Home-based computer service business,
- (i) Individual tutoring,
- (j) Millinery,
- (k) Music instruction,
- (l) Preserving,
- (m) Other occupations as approved by the city which meet the above General Provisions and are compatible with the neighborhood in which it is located.

- 11 Standards used in permitting Specific Use Permits, **Section 17**, may be used by the city for Home Occupation approval.

### **C. PROCESS FOR CERTIFICATE OF OPERATION AND TIME LIMIT**

Home occupations are permitted to be conducted in a residential zone ( "R-1", "R-2", "R-3", "R-4" and "MH" ) provided it is in accordance with other city ordinances or state and federal laws. A home occupation request must be presented to the Planning and Zoning Commission at a public hearing and then to the City Council. A certificate for operation may be issued by the building inspector through the month of January following approval by the City Council. Each approved home occupation that would like to continue operating after January must have the home occupation certificate renewed in January of each year by the City Council, following a public hearing by the Planning and Zoning Commission.

The initial home occupation request and the annual renewal permit must follow the same precludes in advertising the public hearings with the Planning and Zoning Commission and City Council as required in **Section 25** to amend the Zoning Ordinance.

A use considered not within the scope of these home occupation provisions shall be subject to the provisions of the commercial or industrial zones of this ordinance or require a specific use permit.

## **SECTION 19. OFF-STREET PARKING AND LOADING REQUIREMENTS**

### **A. PURPOSE**

To secure safety from fire, panic and other dangers; to lessen congestion in the streets; to facilitate the adequate provision of transportation; to conserve the value of buildings; and to encourage the most appropriate use of land, minimum off-street parking and loading areas shall be provided as set forth in the following schedules and provisions.

### **B. GENERAL PROVISIONS FOR OFF-STREET PARKING**

- 1 Off-street parking required by this zoning ordinance shall be on an all-weather surface and shall be connected by an all-weather surfaced driveway to an approved public or private street or alley. For new construction or development started after the effective date of this ordinance, an all-weather surface shall be either asphalt or concrete pavement. For existing development and new residential development located on one or more acres started after the effective date of this ordinance, an all-weather surface shall be either asphalt or concrete pavement, crushed rock, stone, gravel or other similar semi-permeable surface.
- 2 No parking space shall be less than eighteen feet (18') in length (22' for parallel parking) and nine feet (9') in width. Exception: parking spaces may be reduced in length when a tire-stop curb is installed sixteen feet (16') from the maneuvering lane and a clear space of two feet (2') is provided for a vehicle overhang. The overhang is not permitted over public property or a setback in which parking is not permitted.



- 3 Required off-street parking for residential uses shall be provided on the lot or tract occupied by the principal use. Required off-street parking for non-residential uses shall be provided on the lot or tract occupied by the principal use; however, the city may permit either required or additional off-premise parking, as a special exception, under such regulations and conditions as the City Council may deem advisable when the proposed parking facility is on a platted lot within three hundred feet (300') of the principal use property. In the case of churches, off-site parking may be permitted by the Council; provided, it is located within one thousand (1,000) feet of the church building.

The city council shall approve the location of entrances and exits to these parking facilities and may require screening devices along the parking facility boundaries.

- 4 In determining the required number of parking spaces, fractional spaces shall be counted to the nearest whole space. Parking spaces located in buildings used for repair garages or car washes shall not be counted as meeting the required minimum parking.
- 5 The floor area of structures devoted to off-street parking of vehicles shall be excluded in computing the floor area for off-street parking requirements.
- 6 Where a lot or tract of land is used for a combination of uses, the off-street parking requirements shall be the composite or sum of the requirements for each type of use and no off-street parking space provided for one type use or building shall be included in calculation of the off-street parking requirements for any other use or building except as prescribed by this zoning ordinance.
- 7 Head-in parking spaces so situated that the maneuvering of a vehicle in entering or leaving such spaces is done on a public street or within public right-of-way shall not be classified as off-street parking in computing any parking requirements herein.

The construction of head-in parking as described above shall be prohibited hereafter. All such head-in parking facilities in existence at the time of the enactment of this section are hereby declared to be a non-conforming use of land subject to the provisions of **Section 23** of this ordinance.

- 8 No off-street parking facility shall be located, either in whole or in part, in a public street or sidewalk, parkway, alley or other public right-of-way.
- 9 No off-street parking shall be located, either in whole or in part, within any fire lane required by the city or within aisles, driveways or maneuvering areas necessary to provide reasonable access to any parking space.
- 10 Tandem parking is prohibited, unless specifically authorized by variance granted by the City Council.
- 11 No required off-street parking facility shall be used for sales, non-vehicular storage, repair or service activities.
- 12 Lighting facilities, if provided, shall be so arranged as to be reflected away from property zoned or used for residential purposes.
- 13 For all multifamily and non-residential uses, parking spaces shall be striped or otherwise clearly designated on the parking facility surface, and shall not include any fire lane or other area necessary for aisles or maneuvering of vehicles.

#### C. PARKING IN YARDS PROHIBITED

No person shall park any vehicle or trailer in any front or side yard in any residential district except on an all-weather parking surface which is provided to accommodate off-street parking.

#### D. HANDICAPPED PARKING REQUIREMENTS

The owner of private property open to the public for public purposes shall designate specific parking spaces for the disabled in conformance with the rules promulgated by the State Purchasing and General Services Commission. All such spaces shall be striped and designated by signs located where it will not be obscured.

**E. OFF-STREET LOADING REQUIREMENTS**

All commercial and industrial uses shall be provided with off-street facilities for receiving and loading merchandise, supplies and materials within a building or on the lot or tract. Such off-street loading space may be adjacent to a public street or alley, private service drive, or may consist of a truck berth within the structure. No loading docks shall be constructed facing on any public street or highway unless said loading dock is at least seventy-five feet (75') inside the right-of-way line of the street or highway on which said loading dock fronts.

Such off-street loading space or truck berth shall consist of a minimum area of ten by forty-five feet (10' x 45') and such spaces or berths shall be provided in accordance with the following schedule:

<u>Square Feet of Gross Floor Area in Structure</u>	<u>Minimum Required Spaces or Berths</u>
0 to 5,000	0
5,000 to 25,000	1
25,000 to 45,000	2
45,000 to 65,000	3
65,000 to 100,000	4
Each additional 50,000 or portion thereof	1

The existence of a twenty foot (20') alley adjacent to the property shall be construed as equivalent to one (1) berth. All off-street loading spaces shall have an all-weather surface of asphalt or concrete construction and shall be accessible by a street, driveway or alley.

**F. COUNTING PARKING AND LOADING SPACE TWICE PROHIBITED**

No part of any off-street parking or loading space required in connection with any building for the purpose of complying with these zoning regulations shall be included as a part of any off-street parking or loading space similarly required for any other building.

**SECTION 20 SCREENING REQUIREMENTS****A. SCREENING REQUIRED BETWEEN INCOMPATIBLE ZONING DISTRICTS**

Insofar as practical, screening must be erected, placed, grown and maintained along the common boundary line of incompatible zoning districts before any use is made of the property. This screening requirement shall be the responsibility of the owner of the less restrictive district, with the single family residential district (R-1, R-2, and R-3, Districts) being the most restrictive and the industrial district being the least restrictive district. This is illustrated by the following chart:

**ZONING DISTRICTS RATED FROM MOST RESTRICTIVE TO LEAST RESTRICTIVE**

(Most Restrictive)	"R-1"	Single Family Districts
	"R-2"	Single Family District
	"R-3"	Single Family and Two Family District
	"R-4"	Multiple Family District
	"M-H"	Manufactured Home Residential District
	"LR"	Restricted Commercial District
	"C"	General Commercial Districts
	"I"	Industrial District
(Least Restrictive)		

Such screening shall not be less than six feet (6') in height nor greater than eight feet (8') in height. However, no fence, wall, or hedge on a corner lot shall have a height in conflict with the regulations governing visibility at intersections as prescribed in Section 5. C 6 of this ordinance.



**B. PARKING LOTS, PLAYGROUNDS, BALLFIELDS, TENNIS COURTS  
AND SWIMMING POOLS TO BE SCREENED**

Any parking lot, playground, ballfield, tennis court, or swimming pool when adjacent to any residential use or district, shall be suitably screened from view with screening shrubs. Such screening shall be at least two feet (2') in height.

**C. GARBAGE, REFUSE AND TRASH COLLECTION/STORAGE AREAS TO BE SCREENED**

Garbage, refuse, and trash collection/storage areas in any multifamily residential district, condominium or townhouse project, or non-residential district or use, shall be screened on at least three (3) sides to adequately screen such area from view of the surrounding area.

**D. MAINTENANCE OF SCREENING DEVICES**

All screening devices shall be perpetually maintained by the owner of the property.

Any structurally unsound screening device may be deemed a public nuisance by the city council and ordered to be repaired, replaced, or removed by the owner of the property in accordance with state law.

**SECTION 21. SEXUALLY ORIENTED BUSINESSES**

**A. PURPOSE AND INTENT**

It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens, and to establish reasonable and uniform regulations to prevent the continued concentration of sexually oriented businesses within the city. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

**B. LOCATION RESTRICTIONS**

It shall be unlawful to operate or cause to be operated a sexually oriented business within 1,000 feet of a church, a public or private elementary or secondary school; any residentially zoned property; a public park; or another sexually oriented business. For the purposes of measuring distances, the measurement shall be in a straight line without regard to intervening structures or objects from the nearest portion of the building or structure used as part of the premises where the sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or to the nearest boundary of an affected public park or residential district. The distance between any two sexually oriented businesses shall be measured in a straight line without regard to intervening structures or objects, from the closest exterior wall of the structure in which each sexually oriented business is located.

**C. EXCEPTIONS**

It is a defense to prosecution under this section that a person appearing in a state of nudity did so in a modeling class operated:

- 1 By a proprietary school licensed by the State of Texas, a college, junior college, or university supported entirely or partly by taxation;
- 2 By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported by taxation; or
- 3 In a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and where in order to participate in a class a student

must enroll at least three days in advance of the class; and where no more than one nude model is on the premise at any one time.

## SECTION 22. CLASSIFICATION OF NEW AND UNLISTED USES

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

- 1 The applicant shall refer the question of any new or unlisted use to the planning and zoning commission requesting an interpretation as to the zoning classification into which such use may be placed. Such request shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount or nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, toxic material and vibration likely to be generated and the general requirements for public utilities and sanitation collection.
- 2 The planning and zoning commission shall then consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts, and after public hearing, determine the zoning district or districts within which such use should be permitted.
- 3 Following its decision, the planning and zoning commission shall submit its recommendation to the city council for final approval.
- 4 The same procedures should be followed as outlined in **Section 25** pertaining to amendments, including the public notice and hearing requirements, when considering any zoning classification request for a new or unlisted land use.

## SECTION 23. NON-CONFORMING USES

### A. NON-CONFORMING USE OR STRUCTURE DEFINED

When a use or structure does not conform to the regulations prescribed in the zoning district in which such use or structure is located and was in existence and lawfully operating prior to the adoption of any previous zoning ordinance and has been operating since without continuance, or when on the effective date of this ordinance, the use or structure was in existence and lawfully constructed, located and operating in accordance with the provisions of any previous zoning ordinance or which was a non-conforming use thereunder, and which use or structure does not now conform to the regulations herein prescribed for the district in which the use or structure is located, such use or structure shall be considered as a non-conforming use or structure.

### B. BUILDING ON NON-CONFORMING LOTS OF RECORD

In any district in which residential, commercial or industrial buildings are permitted, buildings may be erected on any single lot of record or multiple lots, provided there is access to such buildings or houses from a street and it is in the same ownership as recorded on the effective date of this ordinance. This provision shall apply even though such lot or lots fail to meet the minimum requirements for area, width, or depth, for the district in which located; however, all other requirements shall still apply. Any construction on non-conforming lots of record shall be permitted only with approval of the board of adjustment.

### C. EXPANSIONS OR ENLARGEMENTS PROHIBITED

Repairs and alterations may be made to a legal non-conforming building, provided that no structural alterations shall be made except those required by law or ordinance, unless the building is changed to a conforming use. No non-conforming use or building may be expanded or increased beyond the lot or tract of land upon which such non-conforming use or structure is located after the passage of this ordinance except to provide off-street loading or off-street parking space facilities. However, the board of adjustment shall have the authority after a hearing to

grant extension of a non-conforming **building** not to exceed 25% of the existing building area in case of hardship.

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any **building** for which a building permit has been properly secured from the city.

#### D. WHEN DISCONTINUED. CONFORMANCE REQUIRED

The lawful use of a building or land existing at the date of enactment of this ordinance, although such use does not conform to the provisions hereof, may be continued. However, if the non-conforming use of any land is discontinued for a period of sixty (60) consecutive calendar days, it shall not thereafter be resumed and any future use of such land shall be in conformity with this zoning ordinance. Upon evidence of hardship, the board of adjustment shall have the power to extend the time limits for the non-conforming use not to exceed six (6) months. If a non-conforming building or structure is discontinued for a period of six (6) consecutive calendar months, it shall not thereafter be resumed and any future use of such land shall be in conformity with this zoning ordinance.

#### E. CLASSIFICATION CHANGES

A non-conforming use or building changed to a conforming use or building may not thereafter be changed back to a non-conforming use or building. Also, whenever a non-conforming use of a building or structure is changed to a use of a more restrictive classification, such use shall not thereafter be changed to a use of a less restrictive classification. For the purpose of this regulation, uses permitted in "R-1" Districts shall be deemed to be those in the most restrictive zoning classification while industrial districts shall be the least restrictive.

#### F. WHEN RESTORATION ALLOWED

A non-conforming building or structure destroyed or damaged by fire, flood, wind, earthquake, explosion or other casualty, or by the public enemy, to the extent where the cost of restoration would amount to less than fifty percent (50%) of its assessed value may be restored. If the damage is in excess of fifty percent (50%) of its value, application for restoration shall first be made to the board of adjustment to permit such restoration. The board may grant or deny such restoration only after public hearing and taking into consideration the property owner's circumstances and the effect on the surrounding property. Homeowners, as shown by the city tax records on the effective date of this ordinance, shall be able to restore their property regardless of the extent of destruction, without making application to the board of adjustment. However, said restoration shall comply with all construction codes then in effect within the city and reconstruction must be started within six (6) months. The failure to start restoration or reconstruction within six (6) months shall forfeit the owner's right to restore or reconstruct the same unless as a conforming building or structure.

### **SECTION 24. PLANNING AND ZONING COMMISSION**

#### A. MEMBERSHIP AND APPOINTMENT

There is hereby created in accordance with Chapter 211 of the Texas Local Government Code, a City Planning and Zoning Commission which shall consist of five (5) members to be appointed by the City Council.

#### B. TERMS OF OFFICE

The terms of three (3) of the members shall expire on \_\_\_\_\_ of each odd-numbered year and the terms of two (2) members shall expire on \_\_\_\_\_ of each even-numbered year. The members of the Commission shall be identified by place numbers one (1) through five (5). The odd-numbered places shall expire in the odd-numbered years; the even-numbered places shall expire in the even-numbered years. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no member shall be appointed for a term in excess of two (2) years. Newly-appointed members shall be installed at the first regular Commission meeting after their appointment.

### C. OFFICERS

A Chairman and Vice-Chairman shall be elected annually from among the Commissions' membership at such other times as these offices may become vacant. In the absence of both the Chairman and Vice-Chairman, the Commission shall elect an Acting Chairman.

A Secretary shall be appointed from the members of the Commission or from staff personnel assigned by the City's Chief Executive Officer to serve the Commission.

### D. DUTIES

- 1 The Commission shall advise the City Council on those matters falling within its charged responsibilities in a manner reflecting concern for the overall development and environment of the city as a setting for human activities.
- 2 The members of the Commission shall regularly attend meetings and public hearings of the Commission and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.
- 3 The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings, shall decide all points of order or procedure. All letters of transmittal from the Commission to the City Council shall be over the signature of the Chairman.
- 4 The Secretary shall be custodian of the minutes and other official records, shall attend to the correspondence of the Commission, and shall cause to be given such notices as are required and in the manner prescribed by law.

### E. QUORUM

A quorum for the conduct of business shall be a majority of the members of the Commission.

### F. MEETINGS

The Planning and Zoning Commission shall meet at such times in the City Hall as may be designated by the Chairman or Vice Chairman in the absence of the Chairman, and at such regular intervals as may be necessary to orderly and properly transact the business of the Commission.

### G. DUTIES AND ZONING RESPONSIBILITIES

The Planning and Zoning Commission shall be an advisory body to the City Council, and shall make recommendations regarding changes of zoning and permanent zoning to be given to newly annexed areas, and shall make recommendations regarding specific use permits and the approval of the plats of subdivisions as may be submitted to it. The Planning and Zoning Commission shall serve in an advisory capacity on any planning related item(s) in the City.

### H. PROCEDURE ON ZONING HEARINGS

The procedure and process for zoning changes and/or amendments shall be in accordance with **Section 25**.

## **SECTION 25. AMENDMENTS**

### A. GENERAL

The zoning regulations, restrictions and boundaries may from time to time be amended, supplemented, changed, modified or repealed. Such amendments, supplements, changes, modifications or repeal shall be deemed to amend, supplement, change, modify or repeal the comprehensive plan of the city and shall become a part of such comprehensive plan.

An amendment to this ordinance may be initiated by a written request of the owner or his or her agent, the zoning administrator, the planning and zoning commission, or the city council on its own motion when it finds that the public may benefit from the consideration of such matter.

#### B. PROCEDURE

All requests for amendments to zoning district boundaries shall be submitted, together with required fees to the zoning administrator or his or her designated administrative official, whom shall cause notices to be sent and the petition placed on the planning and zoning commission agenda. Requests for changes in zoning districts shall include the proposed designation or designations for the area concerned. Alternative proposals may be made at the time of filing the original request for amendment, however all hearings and deliberations shall be limited to the request as submitted by the applicant at the time of original filing.

#### C. POSTING SIGN

The zoning administrator, or his or her designated administrative official, shall have at least one (1) sign erected on the property to be rezoned which sign shall have a total area of at least four (4) square feet. This sign shall, if possible, be located adjacent to a street and in a conspicuous place. The sign shall be erected on or before the first date of the first notice to property owners and shall be removed immediately after final action by the city council or when the applicant withdraws the request, whichever comes first. The sign shall state that a zoning change has been requested on that particular property and the telephone number of the city offices from where dates of public hearings and more information about the zoning request may be obtained. The erection or continued maintenance of signs shall not be deemed a condition precedent to the granting of any zoning change or holding of any public hearing.

#### D. HEARINGS AND NOTICES

The city council may from time to time amend, supplement or change by ordinance the boundaries of the districts or the regulations herein established after receiving a report thereon from the planning and zoning commission. A public hearing on such amendment, supplement, or change shall be held by both the planning and zoning commission and the city council. Notice of hearings shall be given by publication one (1) time in the official newspaper of the city, stating the time and place of such hearings, which time shall not be earlier than fifteen (15) days from the date of publication. Publication of such change shall be accomplished by publishing a descriptive caption of the proposed change.

Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners of property, or to the person rendering the same for city taxes, located within the area of application and within two hundred feet (200') of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notices may be served by using the last known address as listed on the latest approved city tax roll and depositing the notice, postage paid, in the United States mail.

#### E. FAILURE TO APPEAR

Failure of the applicant or his representative to appear before the Planning and Zoning Commission for more than one hearing without an approved delay shall constitute sufficient grounds for the Planning and Zoning Commission to terminate the application.

#### F. PLANNING AND ZONING COMMISSION CONSIDERATION AND REPORT

The planning and zoning commission, after conducting a hearing on a zoning request, shall report its recommendations on the zoning request to the city council for their consideration. The planning and zoning commission may recommend favorable approval of the request or that the request be denied, with or without prejudice. Every proposal which is recommended favorably or unfavorably by the planning and zoning commission shall automatically be forwarded to the city council for public hearing and consideration. When the planning and zoning commission determines that the proposal should be denied, it shall report the same to the city council and the applicant. A hearing before the city council shall be set on a application recommended for denial only when an appeal is filed by the applicant with the zoning administrator or his or her designated administrative official provided the appeal is requested within fifteen (15) days of the planning and zoning commission's decision.

G. APPLICATION NOT TO BE CONSIDERED FOR NINETY (180) DAYS  
AFTER DENIAL OF REQUEST FOR REZONING

No application for rezoning shall be considered within one-hundred-and-eighty (180) days of denial of a request by city council for the same classification on the same property.

H. PROTEST AGAINST CHANGE

In case of a protest against such change signed by the owners of twenty percent (20%) or more either of the land included in such proposed change, or of the land within two hundred (200) feet thereof, such amendment shall not become effective except by the favorable vote of three-quarter (3/4ths) of all the members of the city council present and qualified to vote.

I. ACTION ON APPLICATION

The proponent of any zoning change shall satisfy the city council that either the general welfare of all the city affected by the area to be changed will be enhanced, or that the property is unusable for the purposes allowed under existing zoning. If such is proved to the council's satisfaction, it may grant the requested zoning change; or it may change the zone's designation of a portion of such property; or it may initiate a request to consider changing all or a portion of such property to a district other than that requested and of a different character.

J. SITE PLAN AND SUPPORTING DOCUMENTS REQUIRED;  
PETITION FOR ZONING DISTRICT CHANGE OR SPECIFIC USE PERMIT

When, in the opinion of the zoning administrator or his or her designated administrative official, the planning and zoning commission, the city council, or the board of adjustment, greater information is required from the applicant concerning the nature, extent and impact of his or her request than supplied with his or her application for a change in zoning, variance, or specific use permit, in order to properly review and evaluate all relevant factors thereof, the planning and zoning commission, city council, or the board of adjustment may require the applicant to submit a site plan and/or supporting documents conforming with all or a portion of the requirements set forth in this section, prior to rendering a decision thereon.

The applicant is encouraged to meet with the zoning administrator or his or her designated official in an informal work session to ascertain the exact extent of plans and documents required, if any, prior to the city initiating the advertisement for public hearing on the petition.

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

1 Site Plan

Meeting all of the requirements of a "preliminary plat," as described in the city's subdivision regulations, except that topographic and drainage map information provisions may be waived by the reviewing body when the inclusion of such data would not materially contribute to the necessary evaluation of the project's petition. Additional site plan drawing information which the reviewing body may require include:

- (a) Existing and proposed zoning district;
- (b) A tabular summary schedule indicating:
  - (1) The gross acreage and percent of each type of zoning category proposed;
  - (2) The gross acreage and percent of each type of land use proposed, with streets and open space categories listed separately, and residential uses further stratified as to type, i.e., single family, two-family, multifamily, townhouse, etc., including the total gross project acreage;



- (3) The gross residential density of each type of residential land use proposed, expressed in dwelling units per acre; and based on net residential land use plus one-half (1/2) of any abutting street only;
  - (4) The quantitative number of dwelling units proposed for each residential dwelling type, i.e., single family, two-family, etc.; and
  - (5) Proposed maximum lot coverage by building and land use types, i.e., "R-1", "R-2", "R-3", "R-4", "MH", "LR", "C", and "I" expressed in terms of percent or floor area ratio of the lot or site;
- (c) General outline of extensive tree cover areas;
  - (d) Drainage ways and 100-year flood plain limits;
  - (e) Proposed treatment for screening the perimeter of the land embraced by the petition, including screening of internal separations of land use, where required;
  - (f) Proposed internal non-vehicular circulation linkages, such as: pedestrian paths and hike trails; bike trails; and equestrian bridle paths, where applicable, including their interrelationships with vehicular circulation systems and proposed handling of points of conflict; and

## 2 Architectural Drawings

Elevations, concept sketches, or renderings depicting building types and other significant proposed improvements, including the treatment and use of open spaces, etc., where the submission of such drawings would more clearly portray the nature and character of the applicant's land use and development proposals; and

## 3 Written Documents

In narrative form on 8-1/2" x 11" sheets, including:

- (a) Statement(s) on planning objectives to be achieved in use/development proposal, including a narrative description of the character of the proposed development and rationale behind the assumptions and choices made by the applicant, including use and ownership of open spaces, etc.;
- (b) Legal description of the total site area proposed for rezoning, development, or conditional use permit;
- (c) A development schedule indicating the approximate date(s) when construction of the proposed development, and subsequent stages or phases thereof, if any, can be expected to begin and be completed, to the best of the applicant's knowledge and belief;
- (d) A statement as to the present and proposed ownership of the site or parcels thereof embraced by the application;
- (e) Economic feasibility and/or market analysis studies, when deemed necessary by the reviewing body to adequately assess the necessity for zoning certain parcels to the sizes indicated by the applicant, or to evaluate the need for granting a conditional use permit;
- (f) Environmental assessment statement, prepared pursuant to the National Environmental Policy Act of 1969, and any subsequent amendments thereto, when deemed necessary by the reviewing body to properly assess the impact of the proposed development/land use on the existing environment;
- (g) Statement(s) as to how and when the applicant proposes to provide water and sewer to the development; and

- (h) Signature, title and date of the applicant, at the conclusion of the written documents certifying the information presented in the plans and supporting documents reflecting a reasonably accurate portrayal of the general nature and character of the proposals.

## SECTION 26. BOARD OF ADJUSTMENT

### A. ORGANIZATION OF BOARD OF ADJUSTMENT

- 1 There is hereby created a board of adjustment which shall consist of five (5) members who are residents of the city, each to be appointed by the city council for a staggered term of two (2) years and removable for cause by the city council. The city council shall designate one (1) member as chairperson. Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause, in the same manner as the original appointment was made. Provided, however, that the city council may appoint up to four (4) alternate members of the board who shall serve in the absence of one (1) or more of the regular members when requested to do so by the chairperson of the board, the zoning administrator or the mayor. All cases to be heard by the board will always be heard by a minimum of four (4) members. Alternate members shall serve a term of two (2) years and any vacancy shall be filled in the same manner. Alternate members are subject to removal the same as the regular members.
- 2 The board shall adopt rules to govern its proceedings provided, however, that such rules are not inconsistent with this ordinance or state law. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine, and in accordance with the Texas Open Meetings Law. The chairperson, or in his or her absence, the vice-chairperson or acting chairperson, may administer oath and compel the attendance of witnesses.
- 3 The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep record of its examinations and other official actions, all of which shall be immediately filed in the office of the city secretary and shall be a public record.

### B. APPEALS TO THE BOARD

- 1 Appeals to the board can be taken by any person aggrieved by any decision of the zoning administrator or his or her designated administrative officer, or by any officer or department of the city. Such appeal shall be filed within fifteen (15) days after the decision has been rendered by the zoning administrator or administrative officer by filing with the city secretary and with the board of adjustment, a notice of appeal specifying the grounds thereof. The administrative officer or department from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the records upon which the action appealed from was taken.
- 2 An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator or designated administrative officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him or her, that by reasons of facts stated in the certification, a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.
- 3 No appeal to the board for a variance on the same piece of property shall be allowed prior to the expiration of one hundred eighty (180) days from a previous ruling of the board on any appeal to such body unless other property in the immediate vicinity has, within the said one hundred eighty (180) day period, been changed or acted on by the board or city council so as to alter the facts and conditions on which the previous board action was based. Such change of circumstances shall permit the re-hearing of an appeal by the board, prior to the expiration of one hundred eighty (180) day period, but such conditions shall in no way have any force in law to compel the board, after a hearing, to grant a subsequent appeal. Such subsequent appeal shall be considered entirely on its merits and the peculiar and conditions related to the property on which the appeal is brought.



- 4 At a public hearing relative to any appeal, any interested party may appear in person or by his or her agent or attorney. The burden of proof shall be on the applicant to establish the necessary facts to warrant favorable action of the board on any appeal or variance request. Any variance granted or authorized by the board under the provisions of this ordinance shall authorize the issuance of a building permit or certificate of occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable action of the board unless said board shall have in its action approved a longer period of time and has so shown such specific longer period in the minutes of its action. If the building permit and/or certificate of occupancy shall not have been applied for within said ninety (90) day period or such extended period as the board may have specifically granted, then the variance shall be deemed to have been waived and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal and such subsequent appeal shall be subject to the same regulation and requirement for hearing as herein specified for the original appeal.

#### C. ACTIONS OF THE BOARD

- 1 In exercising its powers, the board may, in conformity with the provisions of the statutes of the State of Texas, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and shall have all the powers of the zoning administrator or other administrative official from whom the appeal is taken. The board shall have the power to impose reasonable conditions to be complied with by the applicant.
- 2 The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator or other administrative official, or to decide in favor of the application for a specific use permit on any appearance or any variance.

#### D. NOTICE OF HEARING BEFORE BOARD REQUIRED

The board shall hold a public hearing on all appeals requests, variance requests made to it and written notice of such public hearings shall be sent to the applicant and all other persons who are owners of real property lying within two hundred feet (200') of the property on which the appeal is made. Such notice shall be given no less than ten (10) days before the date set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last city tax roll. Such notice may be served by depositing the same properly addressed and postage paid in the United States Post Office. Notice shall also be given by publishing the same in the official publication of the city at least ten (10) days prior to the date set for hearing, which notice shall state the time and place of such hearing.

Additionally, the zoning administrator should erect a sign on the property of which a variance has been requested. The sign shall be erected adjacent to a street if possible and in a conspicuous place. The sign should have an area of four (4) or more square feet. The sign should state that a request for a variance has been made on that particular property and the telephone number of the city offices from where dates of public hearings and more information about the zoning request may be obtained. The sign should be erected prior to the hearing as early as possible and convenient. The erection and continued maintenance of this sign, however, shall not be deemed a condition precedent to the granting of any zoning variance, or the holding of any public hearing.

#### E. JURISDICTION OF BOARD

When, in its judgment the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially or permanently injured, the board may, in specific cases, after public notice and public hearing and subject to appropriate conditions and safeguards, authorize the following variances to the regulations herein established and take action relative to the continuance and discontinuance of a non-conforming use:

- 1 To hear and decide appeals where it is alleged there is error on any order, requirement, decision or determination made by the zoning administrator or other administrative official in the enforcement of this ordinance;

- 2 Interpret the intent of the zoning district map where uncertainty exists because the physical features on the ground vary from those on the zoning district map and none of the rules set forth in **Section 4. C** apply;
- 3 Initiate on its motion or cause presented by interested property owner's action to bring about the discontinuance of a non-conforming use;
- 4 Require the discontinuance of a non-conforming use under any plan whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this ordinance;
- 5 Permit the change of occupancy of a non-conforming use to another non-conforming use in accordance with the provisions of **Section 23**;
- 6 Permit the enlargement of a non-conforming use in accordance with the provisions of **Section 23**;
- 7 Permit the reconstruction of a non-conforming structure or building on the lot or tract occupied by such building, provided such reconstruction does not, in the judgment of the board, prevent the return of such property to a conforming use or increase the nonconformity of a non-conforming structure beyond what is permitted by **Section 23**;
- 8 Require the vacation and demolition of a non-conforming structure which is deemed to be obsolete, dilapidated or substandard; and
- 9 Permit such variance such as the front yard, side yard, rear yard, lot width, lot depth, coverage, minimum setback standards, off-street parking, off-street loading regulations, lot area, maximum height, or building, where the literal enforcement of the provisions of this ordinance would result in an unnecessary hardship, or where such variance is necessary to permit a specific parcel of land which differs from other parcels of land in the same district by being of such area, shape or slope that it cannot be developed in a manner commensurate with the development permitted upon other parcels of land in the same district.

#### F. APPEALS OF BOARD ACTION

Any person or persons, jointly or severally aggrieved by any decision of the board, any taxpayer or any officer, department, or board of the municipality may present to a court of record (district court) a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petition shall be presented to the court within ten (10) days after the decision of the board and not thereafter.

### SECTION 27. DEFINITIONS

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

Words used in the present tense include the future tense, words in the singular number include the plural number, and words in the plural number include the singular number. The word "building" includes the word "structure," except as otherwise specified. The term "use" means "used or intended to be used for, or arranged or designed for use." The word "shall" is mandatory not directory; the word "may" is permissive. The word "person" includes a firm, association, organization, partnership, trust, foundation, company or corporation as well as an individual. The word "including" means "including, but not limited to."

Abut-Abutting - Having lot lines or boundary lines in common.

Accessory Building - A subordinate building which is incidental to that of the main building on the same lot. Accessory buildings in residential districts shall be limited to: attached or detached garages, carport, servant's quarters, storage building, bath house, greenhouse, bomb or fall-out shelter.

Accessory Use - A subordinate use which is incidental to the main or primary use.

Adult Arcade - Any place which the public is permitted or invited wherein coin-operated, token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing sexual activities or specified anatomical areas.

Adult Bookstore - A commercial establishment which as one its principal business purposes offers for sale or rental for any form of consideration books, magazines, periodicals or other printed matter which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas.

Adult Cabaret - A nightclub, bar, restaurant, or similar commercial establishment which regularly features persons who appear in a state of nudity or give live performances which are distinguished or characterized by an emphasis on the exposure of specified anatomical areas or by an emphasis on specified sexual activities.

Adult Motel - A hotel, motel or similar commercial establishment which:

- 1 Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- 2 Offers a sleeping room for rent for a period of time that is less than ten hours; or
- 3 Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

Adult Movie Theater - A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, video reproductions, slides or other visual representations are regularly shown which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas.

Adult Video Store - A commercial establishment which as one its principal business purposes offers for sale or rental for any form of consideration photographs, films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by an emphasis on matters depicting or describing specified sexual activities or specified anatomical areas.

Alley - A way which affords only a secondary means of access to abutting property.

Amusement Park - Any building, lot, tract, or parcel of land used in whole or part for the operation and maintenance of a circus, carnival, miniature golf course, golf driving range, batting cages, skating rinks, go-kart racing tracks and/or minstrel shows.

Animal Hospital or Clinic - A facility operated by a veterinarian for the purpose of examining and treating *animals* including outdoor facilities for caring for the animals and allowing the keeping of animals overnight.

Animal Shelter - A facility that keeps impounded stray, homeless, abandoned, or unwanted animals.

Apartment - A room or suite of rooms in an apartment building intended, designed, or occupied as a home or residence by a single family, individual, or group of individuals living together as a single housekeeping unit.

Apartment (Multifamily) Building - Any building which is intended, designed, or occupied as the home or residence of three (3) or more families living independently of each other and maintaining separate cooking facilities.

**Arcade** - A public place of business where 50% or more of the gross sales are derived from amusement machines. The term amusement machine shall mean every machine of any kind of character whatsoever, when such a machine is capable of use or operations for amusement, other than for the purpose of vending merchandise, music, or a service such as telephone service, laundry service, etc. Included in the description of amusement machines are video games, pinball machines, miniature sports machines, and all other machines which designed for challenge, entertainment, or pleasure.

**Asphalt, Concrete Batching Plant** - A facility, permanent or temporary, which mixes asphalt or cement with various aggregates and water in large quantities for transport elsewhere.

**Attached** - Having one or more walls common with a main use building, or joined to main use building by a covered porch or passageway, the roof of which is a part or extension of a main use building.

**Automobile/Motor Vehicles** - A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, trucks (1-ton G.V.W. or less), buses, motor scooters, motorcycles, and recreational vehicles.

**Automobile Service Station** - Any area of land, including structures thereon, that is used for the sale of gasoline, oil or other fuels, and automobile accessories, and which may include facilities for lubricating, washing, cleaning, mechanical repair, and other normal servicing of automobiles. Painting is not considered within the scope of "other normal servicing."

**Automobile Salvage or Wrecking Yard** - An area outside of a building where motor vehicles are disassembled, dismantled, junked or "wrecked," or where motor vehicles not in operable condition or used parts of motor vehicles are stored.

**Auto Repair Shop** - A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

**Auto Sales Lot** - An open area or lot used for the display or sale of automobiles, where no repair work is done except minor reconditioning of the cars to be displayed and sold on the premises, and no dismantling of cars for sale or keeping of used car parts or junk on the premises.

**Bakery, Retail** - An establishment which produces bakery goods and various confectionery items, such as rolls, bread, etc. for direct sale to the consumer.

**Basement** - Means a story below the first story of a building.

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

**Boarding (Rooming) House** - A dwelling wherein lodging or meals for three (3) or more persons, not members of the principal family therein, is provided for compensation, but not including a building in which ten (10) or more guest rooms are provided.

**Breezeway** - A covered passage one story in height connecting a main structure and an accessory building.

**Buffer Area** - An area of land together with specified planting and/or structures thereon, which may be required between land uses of different intensities to eliminate or minimize conflicts between such uses.

**Building** - Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind. When separated by dividing walls without openings, each portion of such structure so separated will be deemed a separate structure.

**Building Area** - Means the portion of the lot remaining after the required yards have been provided.

**Building Line** - A line established, in general, parallel to the front street line. No building or structure may be permitted in the area between the building line and the street right-of-way line.

**Building Materials and Lumber Yard** - A business which stocks building materials, such as fencing, wire, bricks, cement, and lumber, for use in building construction and landscaping.

1. **Main Use Building** - A building in which the primary activity associated with the lot is conducted. In any residential district, any dwelling will be a primary building.
2. **Accessory Building** - A building customarily incidental and subordinate to the primary building located on the same lot.
3. **Building Site** - A single parcel of land occupied or intended to be occupied by a building or structure.

**Building Coverage** - The percent of the lot area covered by the building exclusive of all overhanging roofs.

**Business** - Includes retail, commercial, personal services, excavation, manufacturing and industrial operations and uses.

**Business Office** - A room or group of rooms where the general administration and affairs of a business, etc., are carried on, but where no actual transactions are conducted.

**Cabinet Shop** - A building and/or premises used for the design and construction of cabinets, shelves and similar structures for subsequent sales, installation and use in homes, businesses and offices.

**Carport** - A permanent roofed structure open on at least two sides, designed for the parking and shelter of private passenger vehicles.

**Car Wash** - A building, or portion thereof, where automobiles or other motor vehicles are automatically or manually washed regularly as a business.

**Cellar** - A building story with more than one-half of its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.

**Cemetery** - Land used or intended to be used for the burial of the dead humans, including crematories, mausoleums, and mortuaries.

**Certificate of Appropriateness** - An official certificate issued by the City which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes the city's approval of the Historic request from the property owner.

**Certificate of Occupancy** - An official certificate issued by the City which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes the legal use of the premises for which it is issued.

**Child Care Center or Facility** - A facility that provides care or supervision for children who are not related by blood, marriage, or adoption to the owner or operator of the facility for less than 24 hours a day for more than twelve (12) children under the age of fourteen (14), whether or not the facility is operated for profit or charges for the services it offers.

**Child Care Institutions Providing Basic Child Care** - An institution providing basic child care is a child care facility which provides care for more than 12 children for more than a 24-hour period. Basic child care does not include a 24-hour a day specialized program such as that offered by an emergency shelter, therapeutic camp, residential treatment center, half-way house, or institution serving mentally retarded children.

**Child Day Care Home** - A facility, sometimes referred to as a "Registered Family Home," that regularly provides care in the caretaker's own residence for not more than six (6) children under the age of fourteen (14)

years of age, excluding the caretaker's own children. When more than six (6) children are kept in the home, it shall be considered as either a "Group Day Care Home" or "Child Care Center."

Church or Rectory - A place of worship and religious training of recognized religions including the on-site housing of ministers, rabbis, priests, and nuns.

City Council - The governing body of the City of Rice, Texas.

Clinic - A group of offices for one or more physicians, surgeons, opticians or dentists to treat patients who do not remain overnight.

Community Center - A building used primarily for the social or recreational activities serving the city, neighborhood, or apartment complex.

Conditional Use - A use allowed in a zoning district only if a special use permit is granted by the City Council.

Condominium - See "Townhouse."

Contractor Yard - A building and/or premises for the storage of materials, tools, products and vehicles used in the conduct of a construction business related to heating and air conditioning service, building construction, electrical service, landscaping service, plumbing service, utility service, etc.

Convalescent Center - Any building or structure used for or customarily occupied by persons recovering from illness or suffering from infirmities of age.

Country Club (Private) - An area of land containing either a golf course or tennis courts, or both, and a clubhouse and which is available to members only. Country clubs may contain adjunct facilities such as private club, dining room, swimming pool, and other similar recreational or service facilities.

Courtyard - An open, unoccupied space on the same lot with a building and bounded on three (3) or more sides by such building; or the open space provided for access to a dwelling group.

Detached - Fully separated from any other building, or joined to another building by structural members not constituting an enclosed or covered space.

Display - The exhibition of vehicles, trailers, boats, goods, wares, or merchandise for sale, rental or lease.

District - A section or sections of the City of Rice, Texas, for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Distribution Center, Large - A building or group of buildings with cumulative storage space of over 5,000 square feet in area which is used for the storage of merchandise, goods, and wares which are intended to be distributed to other retail or wholesale establishments.

Distribution Center, Small - A building or group of buildings with cumulative storage space not to exceed 5,000 square feet in area which is used for the storage of merchandise, goods, and wares which are intended to be distributed to other retail or wholesale establishments.

Double Frontage - A lot with double frontage is a lot having lot lines formed by the intersection of two streets, whether public or private, and where the interior angle of such intersection is less than 135 degrees. A lot fronting on a curved street shall also be considered a corner lot if the central angle of the curve is less than 135 degrees.

Drive-In Restaurant - Any establishment where food, and/or non-alcoholic beverage is sold to the consumer and where motor vehicle parking space is provided and where patrons may be served in their respective vehicles or inside the establishment.

Dry Cleaning or Laundry - Any attended or unattended place, building or portion thereof, available to the general public for the purpose of washing, drying, extracting moisture from, or dry cleaning wearing apparel, cloth, fabrics, and textiles of any kind by means of a mechanical appliance(s).

Dwelling or Dwelling Unit - A building or portion of a building which is arranged, occupied or intended to be occupied as living quarters and includes facilities for food preparation and sleeping.

Dwelling, Single Family - A detached building which is designed for or occupied as a home or residence by not more than one (1) family.

Dwelling, Two-Family - A detached building containing two (2) dwelling units, commonly referred to as a duplex, and which is designed for or occupied as a home or residence by not more than two (2) families.

Dwelling, Multifamily - A building containing three (3) or more dwelling units which is designed for or occupied as a home or residence for three (3) or more families living independently of each other and maintaining separate cooking facilities.

Dwelling, Townhouse or Rowhouse - Three or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be owned by one family.

Electrical Sales & Service - An establishment selling electrical supplies and parts and/or providing the servicing and installation of electrical equipment and fixtures.

Easement - A right given by the owner of a parcel of land to another person, public agency or private corporation for a specific and limited use of that parcel.

Family - One or more persons living together as a single housekeeping unit, in which not more than five (5) individuals are unrelated by blood, marriage or adoption, but not including a group occupying a hotel, motel, boarding house, club, dormitory, fraternity or sorority house.

Farm - An area of two (2) acres or more which is used for the growing of farm products such as vegetables and grain as well as the raising thereon of the usual farm poultry and farm animals such as horses, dairy cattle, sheep, and swine.

Feed Store - A commercial establishment which sells animal feed; feeding troughs; animal cages, pens, and gates; fencing materials; pesticides; seeds; and other gardening farming, and ranching supplies. The sale of baby chicks, rabbits, guinea pigs, and other similar small or domesticated animals may be permitted only with a specific use permit and in accordance with all ordinances.

Fence - See Screening (Device) hereafter.

Filling Station or Service Station - Refer to Automobile Service Station.

Fine Arts - Music, painting, sculpture, and including drawing, etchings, ceramics, inlays, needlework, knitting, weaving, and craft work involving leather, wood, metal and glass.

Flea Market - A collection of two or more stalls, booths, tables or other similar arrangements, used by individual vendors, for the display and sale of various items of new or used personal property.

Flood Plain - The area outside of the floodway which may be inundated with flood water with an average frequency of occurrence in the order of once in one hundred years, normally referred to as the intermediate regional flood by the U.S. Corps of Engineers.

Floodway - The channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge flood waters.

Floor Area - The area of a building, including the walls thereof, but excluding all porches, open breezeways and garages.

Foster Group Home - The foster group home is a child care facility which provides care for 7-12 children for 24-hours a day.

Freight Terminal, Motor - A property or building in which freight is brought by common carriers during and is stored for interstate or intrastate shipment by motor truck, including the necessary warehouse space for storage of transitory freight.

Frontage - All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all the property abutting on one side between an intersecting street and the dead-end of the street.

Game Hall - A facility open to the public and used primarily for the playing of games of chance, skill, sport or amusement. Such games include but are not limited to the following: dominoes, cards, bingo, billiards, darts, and amusement machines.

Garage Apartment - A dwelling unit for one family attached to a private garage.

Garage, Auto Repair - A building or portion of a building used for the general repair and/or painting of motor vehicles.

Garage, Parking - A building or portion of a building used for the parking and storage of motor vehicles, other than a private garage or a auto repair garage, in which any sale of gasoline, oil, and accessories is only incidental to the storage of the vehicles.

Garage, Private - An accessory building or portion of a main building on the same lot and intended to be used for the parking and storage of private passenger motor vehicles, boats, or other vehicles.

Garage Sale - Shall mean occasional sales at retail by residential owners or occupants conducted in the garage, patio, driveway or yard of the residential premises occupied by the person holding the sale, for the purpose of disposing surplus personal property accumulated incidentally in the regular course of residential occupancy.

Government Office - Any building or facility either owned or leased for use by local, state or federal governments and in which the affairs of the governmental body are carried on.

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

Gross Floor Area - The total area of all floors as measured to the outside walls, excluding open porches, breezeways, balconies, and terraces. In computing the gross floor area of residential uses, garages and carports shall be excluded.

Group Day Care Home - A facility that regularly provides care in the caretaker's own residence for seven (7) to twelve (12) children under the age of fourteen (14) years of age, excluding the caretaker's own children.

Group Home - A residential facility licensed by the Texas Department of Human Resources to house up to six (6) handicapped and/or mentally retarded persons and two (2) supervisors.

Halfway House - A residential facility providing shelter, supervision and residential rehabilitative services for persons who have been inmates of any county, state or federal correctional institution and released and require a group setting to facilitate the transition to a functional member of society.

Heating/Air Conditioning (AC) Sales & Service - An establishment selling heating and air conditioning units, supplies and parts and/or providing the servicing and installation of heating and air conditioning equipment.

Heavy Equipment Sales - A business offering for sale, and including the servicing and repair of, equipment as construction graders, earth movers, backhoes, cement mixer trucks, dirt moving trucks, etc.



Height (of Building) - The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or the highest ridge board, for gable, hip and gambrel roof.

Historic District - A geographically defined area which possesses significant concentration, linkage, or continuity of buildings, structures, sites, areas, or land, which in turn are united by architectural, historical, archaeological, or cultural importance or significance and which the City Council determines shall be protected, enhanced and preserved.

Historic Landmark - Any building, structure, site, district, area, or land of architectural, historical, archaeological, or cultural importance or significance, which the City Council determines shall be protected, enhanced, and preserved.

Hobby - The engagement of a person in an activity such as music, painting, sculpturing, drawing, etching, ceramics, needlework, knitting, weaving, craft work involving leather, wood, metal and glass, etc. in his or her spare-time activity within his or her premises. No person shall be engaged in a hobby as a business. Such activity shall be carried on within an enclosed or screened area and shall not involve any activity that requires open storage. No activity which is obnoxious or offensive by reason of vibration, electrical interference, glare, noise, odor, dust, smoke or fumes shall be permitted.

Home Occupation - Any occupation or activity listed in **Section 18, "Home Occupation,"** of this ordinance which is clearly incidental and secondary to the residential use of the premises and which is carried on wholly within a main building or accessory building by a member of a family residing on the premises and which does not change the character thereof. However, such use will not be obnoxious or offensive due to vibration, smoke, dust, odor, heat, glare, noise or which increases traffic.

Hospital - An institution or place where sick or injured patients are kept overnight and given medical or surgical care.

Hotel or Motel - A building or arrangement of buildings designed for and occupied as a temporary abiding place by transient guest who are lodged with or without meals for compensation.

House Trailer - Shall mean a vehicle without automotive power designed for human habitation and for carrying persons and property upon its own structure and for being drawn by a motor vehicle.

Industrial Park - Shall mean a parcel of land which has been planned and/or coordinated for a variety of industrial and related activities and business uses. this development may be on a one parcel or may be subdivided. The project is either owned, controlled or managed by a single entity and has its own master plan and/or covenants, conditions, and restrictions.

Industrialized Housing - A residential structure that is designed for the use and occupancy of one or more families, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent residential site, and that is designed to be used as a permanent residential structure when the modules or modular components are transported to the permanent residential site and are erected or installed on a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical systems. The term does not include any residential structure that is in excess of two (2) stories or thirty-five feet (35') in height as measured from the finished grade elevation at the building entrance to the peak of the roof. The term shall not mean nor apply to (a) housing constructed of sectional or panelized systems not utilizing modular components; or (b) any ready-built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location.

Industrialized Building - A commercial or industrial structure that is constructed on one or more modules or constructed using one or more modular components built at a location other than the permanent site, and that is designed to be used as a commercial building when the modules or modular components are transported to the permanent commercial or industrial site and are erected or installed on a permanent foundation system. The term includes the plumbing, heating, air-conditioning and electrical systems. The term does not include any commercial structure that is in excess of two (2) stories or thirty-five feet (35') in height as measured from the finished grade elevation at the building entrance.

Junk - Means copper, brass, iron, steel, rope, rags, batteries, paper, rubber, tires, pipe, plastic, debris, trash, rubbish, waste, metal, and ferrous or non-ferrous materials which are old, scrapped, discarded, second-hand, or otherwise used.

Junkyard - Means any lot or tract of land upon which junk is kept, stored, bought, sold, recycled, or otherwise placed.

Kindergarten or Nursery School - Any facility, whether known or incorporated under such descriptive title or name as "Child Play School," "Child Development Center," "Early Childhood Center," and the like, where six (6) or more children are left for care, training, or education during the day or portion of the day and a fee is charged for this service.

Kennel - Any place or premise where four (4) or more dogs, cats, or other domestic animals at least four (4) months of age are raised, trained, boarded, or kept with or without charge, except for veterinary clinics, animal hospitals, and animal shelters.

Landscaping - Shall mean living plant material, including but not limited to grass, turf, trees, shrubs, natural land forms, water forms, planters; and other landscape features, including walks and plaza areas consisting of enhanced paving, which are a function of the building and not the streetscape.

Laundry - A building or place where clothes and linens are washed and thoroughly dried and pressed by the use of washing, drying, and ironing machines for fee basis and shall include the term "cleaners," and "dry cleaners."

Leather Goods, Retail - A commercial establishment which sells leather materials and supplies or leather goods.

Living Area - Shall include that portion of the dwelling unit which is used or designed for occupancy but does not include carports, garages, and open porches, breezeways, balconies, and terraces.

Loading Space - A space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks, and having a minimum dimension of twelve (12) feet by thirty-five (35) feet and a vertical clearance of fourteen (14) feet.

Lodging House/Rooming House - A building or place where lodging is provided (or which is equipped to provide lodging regularly) by pre-arrangement for definite periods, for compensation, for three (3) or more persons in contradistinction to hotels open to transients.

Lot - A parcel of land occupied or intended to be occupied by a main building and its accessory buildings, or by a group of buildings and their accessory buildings, and having frontage on a dedicated street.

Lot, Corner - A lot abutting on two (2) intersecting streets.

Lot Coverage - The percentage of the total area of a lot occupied by the first story or ground floor of all buildings located on the lot.

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

Lot, Interior - A lot other than a corner lot.

Lot of Record - A lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk, or a parcel of land, the deed for which was recorded in the office of the county clerk prior to passage of this ordinance.

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

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

Manufactured Home - A structure that was constructed or after June 15, 1976 and is transportable in one or more sections, which, in the traveling mode, is eight body feet (8') or more in width or forty body feet (40') or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems.

Manufactured Home Park - A parcel of land which is owned by an individual, a firm, trust, partnership, public or private association or corporation, and has been developed for rental of lots to tenants with mobile homes.

Manufactured Home Lot - That part of a parcel of land in a manufactured home park which has been reserved for the placement of one (1) manufactured home unit.

Masonry or Masonry Units - Shall mean that form of solid construction composed of stone, brick, concrete, gypsum, hollow clay tile or other similar building units or materials or combination of these materials which must be laid up unit by unit and set in mortar.

Massage Establishment - Any building, room, place, or establishment, other than a regularly licensed hospital, where manipulated massage or manipulated exercises are practiced upon the human body by anyone not a duly licensed physician, osteopath, chiropractor or a registered nurse or a doctor whether with or without the use of mechanical, therapeutic or bathing devices, and shall include Turkish bathhouses. This term shall not include duly licensed beauty parlors or barber shops or a place wherein registered physical therapists treat only patients recommended by a licensed physician and operate only under such physician's direction.

Mini-warehouse - A building or group of buildings in a controlled access compound that contains individual, **compartmentalized**, and controlled access stalls or lockers of varying sizes not to exceed five thousand (5,000) square feet for the storage of merchandise, goods, and wares.

Motel - See "Hotel."

Motor Vehicle - Shall mean every kind of motor driven or propelled vehicle whether required or not required to be registered or licensed under the laws of the State of Texas, including trailers, house trailers, and semi-trailers, and shall also include motorcycles, dirt bikes, or other off-road/all-terrain vehicles.

Neighborhood Convenience Center - Centers which carry convenience goods, such as groceries, drugs, hardware and some variety items, and also may include some service stores. The neighborhood convenience center may contain one (1) or two (2) small apparel or shoe stores, but it is clearly dominated by convenience goods, which are items of daily consumption and very frequent purchase, sometimes called "spot necessity" items. This neighborhood serving store group is within convenient walking distance of families served (within convenient driving range in low-density areas), with due consideration for pedestrian access and amenity of surrounding areas.

Nightclub or Dance Hall - An establishment operated as a place of entertainment, characterized by any of the following as a principal use of the establishment:

- 1 Live, recorded or televised entertainment, including but not limited to performances by magicians, musicians or comedians;
- 2 Dancing;
- 3 Any combination of "1" and "2" above.

Non-conformance - A lawful condition of a structure or land which does not conform to the regulations of the zoning district in which it is situated. This may include but is not limited to failure to conform to use, height, area, coverage or off-street parking requirements.

Non-conforming Use - The use of a building or land that does not conform to these zoning regulations and which lawfully existed at the time these zoning regulations became effective.

Nudity or a State of Nudity - Means less than completely and opaquely covered:

- 1 Human genitals, pubic region, or pubic hair;
- 2 Female breast or breast below a point immediately above the top of the aureole,
- 3 Human buttock; or
- 4 Any combination of the above.

Nursing Home - See "Convalescent Center."

Orchard - An area of one (1) acre or more which is used for the growing of fruit trees.

Park or Playground (Public) - An open recreation facility or park owned and operated by a public agency such as the city or the school district and available to the general public for neighborhood use.

Parking Lot - An unenclosed, all-weather surface area used exclusively for the temporary parking and/or storage of motor vehicles.

Parking Space - An area measuring at least nine (9) feet wide by eighteen (18) feet in length, surfaced with an all-weather surface, enclosed or unenclosed, together with an all-weather surfaced driveway connecting the parking space with a street or alley permitting satisfactory ingress and egress. For computing off-street parking space requirements, parking spaces on public streets, alleys or rights-of-way shall not be used.

Planned Unit Development (PUD) - An area with a specified minimum contiguous acreage to be developed as a single entity according to a unified site design plan, containing one or more residential uses, office uses, commercial uses, industrial uses, public and quasi-public uses, or any combination of the same.

Personal Services - Businesses which provide services customized for an individual generally involving the care of the person or his or her apparel including but not limited to barber and beauty shops, shoe and boot repair, dry-cleaning shops, laundries, reducing salons, and health clubs.

Plant Nursery - An establishment which grows and sells plants, flowers, shrubs, grass and other items typically used as and associated with outdoor landscaping or house plants.

Plumbing Sales & Service - An establishment selling plumbing supplies and parts and/or providing the repair and installation of plumbing and fixtures.

Print Shop - An establishment utilizing letter press, duplicating equipment, rotary presses or Linotype equipment to produce in printed form orders for its clients or customers.

Private Club - Facilities where food, beverages (including alcoholic beverages), entertainment, or meeting space are provided to members only.

Professional Office - A room or group of rooms occupied by a physician, optometrist, psychologist, chiropractor, dentist, attorney, engineer, surveyor, architect, accountant, planner, management consultant, or any other similar vocation. Veterinary clinics are specifically excluded from this definition.

Ranch - An area of two (2) acres or more which is used for the keeping or raising farm animals and livestock including but limited to horses, mules, cows, cattle, and swine.

Recreational Vehicle - A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling recreational or sporting purposes. The term recreational vehicle shall include, but not be limited to: travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, and boats and boat trailers.

Recreational Vehicle Park - Any development, site, parcel or tract, of land designed, maintained or intended to be used for the purpose of providing short-term occupancy of camper vehicles, recreational vehicles, tents, or trailers.

- 1 Residential - more than 50% of tenants on site for 2 weeks or more.
- 2 Recreational - more than 50% of tenants on site for 2 weeks or less.

Recycling Collection Facility - A facility designed to collect, sort, and package, by either manual or mechanical processes, recyclable items for transport to a processing plant.

Rental Store - An establishment which offers and array of items such as appliances, furniture, stereo equipment, televisions, etc. at a stated price for a fixed interval of time under a lease or rental agreement.

Residential Density - The number of lots, dwelling units, or persons located or residing within a residential area.

Gross Density - The number of lots, dwelling units, or persons, located within the total acreage of a residential area.

Net Density - The number of lots, dwelling units, or persons located within the total acreage of residential area, exclusive of street rights-of-way, easements, non-residential land use sites, and acreage unsuitable for development.

Resort - Any tract of land used primarily to provide recreation and entertainment especially, but not exclusively, to tourists or vacationers and generally but not necessarily provides overnight accommodations for their guests in the form of hotels, motels, cabins, R.V. parks, R.V. rentals, etc.

Restaurant - Any eating or drinking establishment where the preparation and serving of food is the primary business of such establishment including cafes, bistros, cafeterias, and other fast food and drive-in food establishments.

Salvage - Shall mean and necessarily include:

- 1 Any discarded, abandoned, junked, wrecked, dismantled, worn out, or ruined motor vehicles (including automobiles, trucks, tractor, trailers, and buses) motor vehicle parts, boats, travel trailers, trailers, cranes, machinery or equipment, machinery or equipment parts, and or recreational vehicles; and/or
- 2 Any junk.

Salvage yard - Shall mean and necessarily includes a salvage yard, automotive wrecking yard, and automotive graveyard shall mean any lot or tract of land upon which three (3) or more discarded, abandoned, junked, wrecked, dismantled, worn out, or ruined motor vehicles (including autos, trucks, tractor-trailers, and buses), motor vehicle parts, boats, travel trailers, trailers, and/or recreational vehicles are either:

- 1 Kept, stored, bought, sold, recycled, or otherwise placed; or
- 2 Disassembled, dismantled, stripped, scrapped, recycled, or cut up.

School - A place having a curriculum for the purpose of giving instruction, training or education in a service, art, trade, or for general knowledge.

Screening (Device) - Shall mean any of the following:

- 1 Any solid fence or wall constructed of metal, brick, masonry or concrete; the vertical surface of which shall be without gaps, except openings for access.
- 2 Any dense, screening shrubs providing a visual barrier, for which such material shall be maintained in a healthy growing condition; or
- 3 Landscaped earth berms may, when appropriate in scale, be considered and used as a screening element in lieu of a fence, wall, hedge, or other dense planting material.

**Screening Shrubs, Large** - Shall mean shrubs with an installed minimum height of three (3) feet as identified below, or any other shrubs which, when mature, shall reach a minimum height of six (6) feet, provide a dense visual barrier, be drought resistant, and possess compact root systems posing minimum danger to integrity of public utilities. The large screening shrubs included on the following list are recommended to be planted to screen incompatible land uses, parking facilities, and dumpsters by forming a visual barrier.

**Common Name**

Photina  
Fraser's Photina  
Buford Holly  
Chinese Holly  
Waxmyrtle  
Yaupon Holly  
Nellie R. Stevens Holly

**Botanical Name**

Photina Serrulata  
Photina Fraseri  
Ilex Cornuta Burfordi  
Ilex Cornuta Rotunda  
Myrica Cerifera  
Ilex Vomitoria  
Ilex Cornuta

**Screening Shrubs, Small** - Shall mean shrubs with an installed minimum height of two (2) feet as hereinafter identified, or any other shrubs which, when mature, shall reach a minimum height of two (2) feet and provides a dense visual barrier. The small screening shrubs included on the following list are recommended to be planted to screen parking lots, playgrounds, ballfields, swimming pools, and tennis courts by forming a visual barrier.

**Common Name**

Compact Nandina  
Dwarf Abelia  
  
Dwarf Burford Holly  
Dwarf Yaupon Holly

**Botanical Name**

Nandina Compacta  
Abelia Edward Goucher  
Abelia Prostata  
Ilex Cornuta Burfordii Nana  
Ilex Vomitoria Nana

**Seat** - As used in determining parking requirements for this ordinance, a seat shall mean such sitting space as needed or which is designed to be used for one person to sit down and occupy.

**Second Hand Store** - An establishment specializing in the sale of previously used materials, goods, and merchandise of less than twenty (20) years of age and of that material, goods and merchandise over twenty (20) years of age which do not derive a value as a result of their age.

**Servant or Caretaker's Quarters** - A secondary dwelling unit located on a lot with a main residential structure and used as living quarters for persons employed on the premises and not for rent or use as a separate domicile by persons other than those employed on the premises or their immediate family.

**Service Station** - A business establishment where gasoline, oil, grease, batteries, tires and motor vehicle accessories may be supplied and dispensed at retail, and the servicing of vehicles occurs, but not including the major overhaul of automobiles, body work, or repair of heavy trucks and equipment. A service station is sometimes referred to as a "gas station," "filling station," or "fuel service station."

**Setback** - The required minimum distance between any structure and any property line of the lot on which it is located. Setbacks shall be measured perpendicular to lot lines. The terms "setback" and "required yard" shall mean the same and can be interchanged.

**Sexually Oriented Business** - Shall mean a love parlor, nude modeling studio, adult bookstore, adult movie theater, adult video arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

**Shopping Center or Mall** - A planned and coordinated grouping of retail business and service uses on a single site or a combination of sites where special attention is given to on-site vehicular circulation, parking, and building design and orientation.

Sign - An outdoor device or structure which directs attention to a business, commodity, service, announcement, direction or entertainment conducted, sold, or offered to the public.

Site Development Plan - A drawing showing the provisions for a proposed project, including such information that enables the drawing to serve as a plat, together with information pertaining to all covenants relating to land use, location and bulk of structures, intensity of use or density of development, private streets, ways and parking facilities, common open space and public facilities, and all other reasonable information required by the Planning and Zoning Commission as a part of the review process.

Small Animal Clinic - An office or group of offices for one or more veterinarians engaged in treating diseases or injuries to small domestic animals. Structures are to be soundproof and no outside facilities are permitted.

Special Use Permit - A use that may be allowed if it meets certain specified requirements or conditions and meets the approval of the City Council.

Specified Anatomical Areas - Means human genitals, pubic regions, buttocks and female breast below a point immediately above the top of the aureole.

Specified Sexual Activities - Means and includes the fondling or other erotic touching of human genitals; sexual acts including intercourse, copulation, or sodomy, or masturbation; or excretory functions as part of or in connection with any sexual act or fondling or other erotic touching of human genitals.

Stable, Private - An accessory building used by the residents of the premises for sheltering and quartering of horses owned by the occupants and for which no fee is charged for stabling the horses.

Stable, Public - A lot or tract of land used for the sheltering and quartering of horses for which a fee or charge is made for the stabling of the horses.

Stone Screenings - Washed stone 1/2 inch or 1-1/2 inch in size.

Story - That portion of a building, other than a basement, included between the surface of a floor and the surface of a floor next above it, or if there is no floor above it, then the portion of the building between the surface of a floor and the ceiling or roof above it.

Story, Half - The topmost story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than four feet (4') above the floor of such story, except that any partial story used for residence purposes shall be deemed a full story.

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

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

Structure - Anything constructed or erected having location on or under the ground or attached to something having location on or under the ground.

Swimming Pool, Private - A recreational facility used for swimming which is used by the owners, employees, or residents of the property and their guests.

Swimming Pool, Public - A recreational facility used for swimming which is open to the public for which a membership is required or a fee or charge is made for the use of the facility.

Tack Store - A commercial establishment which sells horse equipment such as saddles, bridles, blankets, riding accouterments, etc.



Television Satellite Dish - An earth-based station shaped like a dish which is used for the reception of satellite signals for television programs.

Tennis Court, Private - A concrete or clay court which is used for the playing of tennis by the owners, employees, or residents of the property and their guests.

Tennis Court, Public - A concrete or clay court which is used for the playing of tennis by the general public and for which membership is required or a fee or charge is made for the use of the facility.

Tool and Equipment Rental - An establishment which offers an array of tools and equipment and machinery such as cranes, backhoes, trucks, tractors, etc. at a stated price for a fixed interval of time under a lease or rental agreement.

Townhouse - A single family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party or common walls or are located immediately adjacent thereto with no visible separation between walls or roofs. This definition shall also include the term "condominium."

Trailer Camp or Park - An area designed, arranged or used for the parking or storing of one or more recreational vehicles, travel trailers, motor homes, motor coaches, pick-up campers, and camping trailers which are occupied or intended for occupancy as temporary living quarters by individuals or families.

Trucks - A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people and having a G.V.W.R. in excess of one (1) ton.

Turf's - Shall mean the following list of turf's and any other turf's which can be demonstrated to the building official to be drought resistant.

Common Name  
Bermuda Grass  
Bermuda Grass hybrids  
St. Augustine  
Buffalo Grass  
Fescue & combinations

Botanical Name  
Cynodon Dactylon  
  
Stenotaphrom Secondatum  
Buchloe Dectyloides  
Festuca Arundinacea

Underground Shelter - A concrete structure designed for the protection of humans from tornadoes or from nuclear blast, heat, or fall-out, the main portion of which is underground.

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

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

Used Auto Sales Lot - A lot or portion thereof to be used only for the purchase, trade, display, and sale of automobiles that are in condition to be driven on or off the lot, under its own power. Use car lots shall not be used for the storage of wrecked automobiles, or the dismantling of automobiles, or the storage of automobile parts.

Variance - An adjustment in the application of the specific regulations of the zoning ordinance to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.

Veterinary Clinic - An establishment for the care and medical veterinary practice on or for domestic household animals, conducted completely within an enclosed structure. This term shall also include "animal clinic."

Veterinary Hospital - An establishment for the care and medical veterinary practice on or for large animals and household domestic animals and which animals may be boarded during treatment in outside pens, runs or stables. This term shall also include "animal hospital."



Warehouse - A building or group of buildings used for the storage of merchandise, goods, and wares.

Washateria - A building or place where clothes and linens are washed and thoroughly dried on a self-service basis by the use of washing, drying, and ironing machines and shall include the term "self-cleaning laundry."

Yard - An open space, other than a court, on the same lot with a building and which is not obstructed from ground level to the sky except for roof overhangs, fences, trees, and shrubs.

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

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

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

## **SECTION 28 PENALTY FOR VIOLATIONS**

Any person violating any of the provisions of this zoning ordinance shall be fined, upon conviction, not more than two thousand dollars (\$200.00), and each day any violation or noncompliance continues shall constitute a separate and distinct offense.

The penalty provided herein shall be cumulative of other remedies provided by state law and the power of injunction as provided in V.T.C.A., Local Government Code, Section 211.012 and as may be amended, may be exercised in enforcing this ordinance whether or not there has been a criminal complaint filed.

## **SECTION 29 INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon height of building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provision of this ordinance shall govern.

## **SECTION 30 PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES**

By the passage of this ordinance, no presently illegal use shall be deemed to have been legalized unless such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain non-conforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this ordinance that no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the existing zoning ordinance was hereby amended, shall be discharged or affected by such amendment; but the prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance has not been amended.

## **SECTION 31. CONFLICTING ORDINANCES REPEALED**

All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

**SECTION 32. SEVER ABILITY**

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any section, paragraph, sentence, clause or phrase of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses and phrases of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

**SECTION 33. EFFECTIVE DATE**

This ordinance shall take effect immediately from and after its passage and publication of the caption, as the law in such cases provides.

PASSED AND APPROVED this 11 day of April, ~~1998~~ 2000.

  
Mayor

ATTEST:

  
City Secretary



**Section 13.100**

Violation of any provision or provisions of this Ordinance by any subdivider shall constitute a misdemeanor and upon conviction of such violation in corporation court of the City of Rice, a fine not exceeding two-hundred (\$200.00) dollars may be imposed, and each day that such violation continues shall be separate offense. In case a corporation is the violator of any provision of this Ordinance, each officer, agent and/or employee in any way responsible for such violation thereof shall be individually and severally liable for the penalties herein prescribed; provided, however, the penal provisions and application of this Ordinance shall not apply to a duly qualified County Clerk and/or Deputy County Clerk, action in their official capacity, or in any way be construed to conflict with Article 427B, of the Texas Penal Code: and provided further, however, that any violation of any provision of this Ordinance outside the corporate limits, but within the City's extraterritorial jurisdiction, shall not constitute a misdemeanor nor shall any fine be applicable to such violation within such extraterritorial jurisdiction. However, the City shall have the right to institute an action in the District Court to enjoin the violation of any provision of this Ordinance within the City's extraterritorial jurisdiction.

**Section 13.200: Penal Convictions**

No conviction or convictions under the penal provision of this Ordinance, or Article 427B, Texas Penal Code, shall ever be considered as any bar to any injunctive or other legal remedy, relief, right, or power, existing in the City of Rice, Texas, to enforce the application and provisions of this Ordinance by the virtue of the Constitution and Laws of the State of Texas.

**SECTION 14: SAVINGS CLAUSE**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, if being the intent of the City Council, in adopting this Ordinance, that no portion thereof, or provision or regulation contained herein, shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase, or provisions of this Ordinance.

This Ordinance shall become effective the 11 day of April, 1900

PASSED AND APPROVED on the 11 day of April, 1900.

APPROVED \_\_\_\_\_

MAYOR

ATTEST:

\_\_\_\_\_  
City Secretary