

(Newspaper)

AN ORDINANCE OF THE CITY OF WESTON, COLLIN COUNTY, TEXAS, ADOPTING ZONING REGULATIONS, PROVIDING FOR CONTROLS, ADMINISTRATION AND ENFORCEMENT, CHANGES AND AMENDMENTS, ESTABLISHING DISTRICTS AND BOUNDARIES, ZONING MAP, VARIOUS DISTRICT REGULATIONS, SPECIFIC USE PERMITS, FINAL PLAN APPROVAL FOR COMMERCIAL DEVELOPMENT, OFF-STREET PARKING AND LOADING REGULATIONS, PERFORMANCE STANDARDS, HEIGHT AND AREA EXCEPTIONS AND MODIFICATIONS, NONCONFORMING LOTS AND USES, BOARD OF ADJUSTMENT; PROVIDING FOR FINES FOR VIOLATIONS OF REGULATIONS NOT TO EXCEED \$2,000.00 FOR EACH VIOLATION; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND PUBLICATION.

WHEREAS, notice of a public hearing on the proposed Zoning Ordinance was published in accordance with the Texas Local Government Code;

WHEREAS, a public hearing was conducted to allow all interested parties to comment for or against the provisions contained in the proposed Zoning Ordinance;

WHEREAS, the City Council finds that the amended regulations adopted herein meet the requirements of Chapter 212 of the Texas Local Government Code for the protection of the citizens of Weston.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WESTON, COLLIN COUNTY, TEXAS:

SECTION 1. ADOPTION. The Zoning Ordinance and the Zoning Map attached hereto and included herein for all purposes, is hereby adopted by the Weston City Council.

SECTION 2. PENALTY. The designated representative of the City may cite any person who violates any provision of this Ordinance and, if convicted in municipal court, shall be fined not more than Two Thousand Dollars (\$2,000.00) and each and every day the provisions of this Ordinance are violated shall constitute a separate offense.

SECTION 3. CONFLICTS. All ordinances and provisions of the City of Weston, Texas, that are in conflict with this Ordinance shall be and the same are hereby repealed, and all ordinances and provisions of ordinances of said City not so repealed are hereby retained in full force and effect.

SECTION 4. SEVERABILITY. It is the intent of the City Council that each paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be deemed severable and, should any such paragraph, sentence, subdivision, clause, phrase, or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of this Ordinance left standing.

SECTION 5. PUBLICATION. In accordance with Section 52.011 of the Local Government Code, the caption of this Ordinance shall be published in every issue of the official newspaper of the City for a period of ten (10) days but not more than twice during the said ten (10) day period.

8 **ADOPTED** by the City Council of the City of Weston, Collin County, Texas, this day of ~~April~~, 1998.
Sept.

CITY OF WESTON

by: *Kenneth R Cowan*
Kenneth R. Cowan, Mayor

ATTEST:

Layne Prew
City Secretary

APPROVED AS TO FORM:

[Signature]
John E. Rapier, City Attorney

THE CITY OF
WESTON, TEXAS

Ordinance No. _____

ZONING ORDINANCE

CONTENTS

ARTICLE 1. ESTABLISHMENT OF CONTROLS	1
Section 1-1. Short Title and Application of Ordinance.	1
Section 1-2. Interpretation and Purposes.	1
Section 1-3. Scope.	2
Section 1-4. Definitions.	2
Section 1-5. Compliance with the Regulations.	12
ARTICLE 2. ADMINISTRATION AND ENFORCEMENT	13
Section 2-10. Building Permits.	13
Section 2-11. Enforcement and Penalties.	13
ARTICLE 3. CHANGES AND AMENDMENTS	13
Section 3-15. Declaration of Policy.	13
Section 3-16. Authority to Amend.	14
Section 3-17. Procedure.	14
Section 3-18. Limitation on Re-Application.	16
ARTICLE 4. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES	17
Section 4-25. Division of Districts.	17
ARTICLE 5. OFFICIAL ZONING MAP	17
Section 5-30. Maintenance of Zoning Map.	17
Section 5-31. Rules for the Interpretation of District Boundaries.	18
ARTICLE 6. "A" AGRICULTURAL DISTRICT REGULATIONS	19
Section 6-35. Use Regulations.	19
Section 6-36. Height Regulations.	20
Section 6-37. Area Regulations.	20

**ARTICLE 7. "R2" SINGLE FAMILY
RESIDENTIAL DISTRICT REGULATIONS 20**

Section 7-40. Use Regulations. 20
Section 7-41. Height Regulations. 22
Section 7-42. Area Regulations. 22
Section 7-43. Miscellaneous Regulations. 23

ARTICLE 8. MANUFACTURED HOME DISTRICT 24

Section 8-45. Purpose. 24
Section 8-46. Use Regulations. 24
Section 8-47. Manufactured Home District. 24
Section 8-48. Height, Lot, and Yard Requirements. 24
Section 8-49. Parking Regulations. 25
Section 8-50. Supports, Tie-Downs and Skirting. 25

ARTICLE 9. "C" COMMERCIAL DISTRICT REGULATIONS 25

Section 9-55. General Purpose and Description. 25
Section 9-56. Use Regulations. 25
Section 9-57. Commercial District Building Regulations. 28
Section 9-58. Height Regulations. 29
Section 9-59. Area Regulations. 29

ARTICLE 10. SPECIFIC USE PERMITS 29

Section 10-65. Public Hearings Concerning Request for Permit. 29
Section 10-66. Specific Use Permit Considered as Amendment. 30
Section 10-67. Recommendations Considered as Advisory in Nature. 30
Section 10-68. Zoning Map to Show Place of Specific Use. 31

**ARTICLE 11. FINAL PLAN APPROVAL
FOR COMMERCIAL DEVELOPMENT 31**

Section 11-75. Submission of Final Plans. 31

ARTICLE 12. OFF-STREET PARKING AND LOADING REGULATIONS 32

Section 12-80. Parking Requirements Based on Use. 32

Section 12-81. Rules for Computing Number of Parking Spaces. 32

Section 12-82. Minimum Distance for Off-Street Parking. 33

Section 12-83. Off-Street Loading Space. 33

ARTICLE 13. PERFORMANCE STANDARDS 34

Section 13-85. Noise. 34

Section 13-86. Smoke and Particulate Matter. 36

Section 13-87. Odorous Matter. 37

Section 13-88. Fire and Explosive Hazard Material. 37

Section 13-89. Toxic and Noxious Matter. 37

Section 13-90. Vibration. 38

Section 13-91. Glare. 38

Section 13-92. Waste Materials. 38

Section 13-93. Animals. 38

ARTICLE 14. HEIGHT AND AREA EXCEPTIONS AND MODIFICATIONS 39

Section 14-95. Height. 39

Section 14-96. Front Yards. 39

Section 14-97. Side Yards. 40

Section 14-98. Rear Yards. 40

ARTICLE 15. NONCONFORMING LOTS AND USES 40

Section 15-100. Existing Lots Less Than 2 Acres. 40

Section 15-101. Existing Uses. 41

Section 15-102. Existing Building. 41

Section 15-103. Voluntary Discontinued Use of a Building for One Year. 41

Section 15-104. Existing Residence. 41

Section 15-105. Repairs. 41

ARTICLE 16. BOARD OF ADJUSTMENT 42

Section 16-110. Definition. 42

Section 16-111. Organization and Procedure. 42

Section 16-112. Appeals. 43

Section 16-113. Powers and Duties of Board. 43

COMPREHENSIVE ZONING

ARTICLE 1. ESTABLISHMENT OF CONTROLS

Section 1-1. Short Title and Application of Ordinance.

These regulations shall be known as, and may be cited as, "The City of Weston, Texas, Zoning Ordinance" and shall apply to the land within the corporate limits of the City.

Section 1-2. Interpretation and Purposes.

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements adopted for promotion of the public health, safety, and welfare. The Zoning Regulations and districts as herein established have been made for the purpose of promoting health, safety, moral responsibility, and the general welfare of the City, and have been designed, among other things:

- A. To lessen congestion on streets;
- B. To secure safety from fire, panic, and other dangers;
- C. To promote health and the general welfare;
- D. To provide adequate light and air;
- E. To prevent the overcrowding of land;
- F. To avoid undue concentration of population;
- G. To facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements;
- H. To conserve the value of the property and encourage the most appropriate use of land throughout the community;
- I. To minimize the threat of release, spillage or seepage of trash, garbage, debris, sewage, wastewater, noxious fumes or odors, or toxic materials; and
- J. To lessen the potential pollution of the environment in the City or its environs.

Section 1-3. Scope.

It is not intended by these regulations to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, or with private restrictions placed upon property by covenant, deed, easement, or other private agreement. Where this ordinance imposes a greater restriction upon land, buildings, or structures than is imposed or required by other ordinances, covenants, or agreements, the provisions of these regulations shall govern. Where other ordinances impose a greater restriction than is imposed herein, the provisions of such other ordinances shall govern.

Section 1-4. Definitions.

- A. Tense, Plurality, Etc.: Words used in the present tense include the future; words in the singular number include the plural number and words in the plural number include the singular number; the words "Building" includes the word "Structure"; the word "Lot" includes the words "Plot" and "Tract", etc.; the word "Shall" is mandatory and not discretionary.
- B. Definitions:
1. Accessory Building or Use: An "accessory building or use" is one which (a) is subordinate to and serves a principal building or principal use; (b) is subordinate in area, extent, or purpose to the principal building or principal use served; (c) contributes to the comfort, convenience, and necessity of occupants of the principal building or principal use served; and (d) is located on the same building lot as the principal use served. "Accessory" when used in the text shall have the same meaning as accessory use.
 2. Alley: A public space or thoroughfare which may afford secondary means of access to property abutting thereon.
 3. Area of the Lot: The area of the lot shall be the net area of the lot and shall not include portions of public streets, alleys, and land designated as the 100 year flood plain.
 4. Auto Laundry: An "auto laundry" is a building, or portion thereof, containing facilities for washing automobiles using automated methods including chain conveyor, blower, steam cleaning device, or other mechanical devices. A self-service type of carwash is an auto laundry.
 5. Basement: A building story (basement or cellar) which is partly underground but having at least one-half its height above the average

level of the adjoining ground. The portion below the average level of the adjoining ground shall not be counted in computing building height.

6. **Block**: An area enclosed by streets and occupied by or intended for buildings; or, if said word is used as a term of measurement, it shall mean the distance along a side of a street between the nearest two streets which intersect said street on the said side.
7. **Building**: Any structure built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.
8. **Building Height**: "Building height" is the number of stories contained in a building and/or the number of feet above the average level of the adjoining ground.
9. **Building Line (Setback Line)**: A line parallel or approximately parallel to the road easement or right-of-way or property line at a specific distance therefrom marking the minimum distance from the street line or property line that a building may be erected.
10. **Building Lot**: A "building lot" is a single tract of land located within a single block which (at the time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. Therefore, a "building lot" may be subsequently subdivided into two or more "building lots" or a number of "building lots," subject to the provisions of this Ordinance and the Subdivision Ordinance.
11. **Building Official**: The Building Inspector or administrative official charged with the responsibility for issuing permits and enforcing the Zoning Ordinance, Subdivision Ordinance, and Building Code.
12. **Certificate of Occupancy or Compliance**: An official certificate issued by the City through the building official which indicates conformance with or approval of a conditional waiver from the Zoning Regulations and authorizes legal use of the premises for which it was issued.
13. **Church or Rectory**: A place of assembly and worship by a recognized religion including synagogues, temples, churches, instruction rooms, and the place of residence for the ministers, priests, rabbis, teachers, and directors of the premises.

14. City: The word "City" shall mean the City of Weston.
15. Clinic: A group of offices for one or more physicians, surgeons, dentists or similar members of the medical profession to treat sick or injured out-patients or animals.
16. College or University: An institution established for educational purposes and offering a curriculum similar to the public schools or an accredited college or university, but excluding trade and commercial schools.
17. Commission and/or Planning Commission: The words "Planning Commission" shall mean the Planning and Zoning Commission of the City of Weston, Texas.
18. Conditional Use: A "conditional use" is a use which shall be permitted in a particular district only upon fulfillment of the conditions as set forth for that use in the use regulations for the appropriate district.
19. Convalescent Home: Any structure used for, or customarily occupied by, persons recovering from illnesses or suffering from infirmities of age.
20. Council: The word "Council" shall mean the City Council of the City of Weston, Texas.
21. Courtyard: An open, occupied space bounded on more than two (2) sides by the walls of a building. An inner courtyard is entirely surrounded by the exterior walls of a building. An outer courtyard is a court having one side open to a street, alley, yard, or other permanent open space.
22. Day Nursery or Kindergarten: An establishment where four (4) or more children are left for care or training during the day or portion thereof including a recreation area with or without a building where children engage in supervised training or recreation during daylight hours.
23. Depth of Lot: The mean horizontal distance between the front and rear lot lines.
24. Development or to Develop: A "development" includes the construction of new buildings or structures on a building lot, the relocation of an existing building on another building lot, or the use of open land for a new use. To "develop" is to create a development.

25. District: A section of the City for which the regulations of this Ordinance, such as the area, height, use, etc. of the land and buildings, are uniform.
26. Dwelling, Single-Family: A site built detached building, but not a HUD-Code Manufactured Home, having accommodations for and occupied by not more than one family, located on a lot or separate building tract, and having no physical connection to a building located on any other separate lot or tract.
27. Dwelling Unit: A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters of a family and including facilities for food preparation and sleeping.
28. Farm or Ranch: An area which is used for growing of usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on said premises, but not including the commercial feeding or the feeding of garbage to swine or other animals and not including any type of agricultural or husbandry specifically prohibited by ordinance or law. Swine are prohibited on all lots or tracts of less than one (1) acre.
two (2)
29. Floor Area: The total square feet of floor space within the outside dimensions of a building including each floor level, but excluding unfinished cellars, carports, or garages.
30. Garage, Auto Repair: An "auto repair garage" is a building or portion thereof whose principal use is for the repair, servicing, equipping, or maintenance of motor vehicles or motor vehicle components, including engines, radiators, starters, transmissions, brakes, tires and wheels, seats, and similar components. A commercial auto repair garage does not qualify as a home occupation as defined herein.
31. Golf Course and/or Country Club: An area containing a golf course and/or a club house and available to the public or for private membership. Such operations may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts, and similar recreational or service facilities.
32. Guest House: An accessory building located on the same lot as a principal residence occupied by guests of the principal residence and may

not include kitchen facilities and not for use as rental property. Intended for occasional use only by relatives or friends.

33. Home Occupation: A "home occupation" is a business, occupation, or profession conducted entirely within a primary residential dwelling unit by a resident thereof, and which shall have the following characteristics:
- a. The activity shall employ only members of the immediate family of a resident of the dwelling unit.
 - b. There shall be no external evidence of the occupation detectable at any lot line, said evidence to include advertising signs or displays, smoke, dust, noise, fumes, glare, vibration, electrical disturbance, storage of materials or equipment, or traffic or parking of vehicles in a manner evidencing the conduct of a business.
34. Hospital: A "hospital" is a legally authorized institution in which there are complete facilities for diagnosis, treatment, surgery, laboratory, x-ray, and the prolonged care of bed patients. Clinics may have some but not all of these facilities.
35. HUD-Code Manufactured Home: A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (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. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. Section 3282.8(g).
36. Living Unit: The room or rooms occupied by a family and must include sleeping and cooking facilities.
37. Lot: Land occupied or to be occupied by a building and its accessory building including such open spaces as are required under this Ordinance and having its principal frontage upon a public street or officially approved place.
38. Lot Lines: The lines bounding a lot as defined herein.

- a. Lot Line, Front: A "front lot line" is that boundary of a building lot which is the line of an existing or dedicated street. Upon corner lots, either street line may be selected as the front lot line providing that a front and rear yard are provided adjacent and opposite, respectively, to the front lot line.
 - b. Lot Line, Side: A "side lot line" is that boundary of a building lot which is not a front lot line or a rear lot line.
 - c. Lot Line, Rear: The "rear lot line" is that boundary of a building lot which is the most distant from and is, or is most nearly, parallel to the front lot line.
39. 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 of Collin County prior to the adoption of this Ordinance.
 40. Lot Width: The width of a lot at the front building or setback line.
 41. Main Building: The building or buildings on a lot which are occupied by the primary user.
 42. Mobile Home: A structure that was constructed before June 15, 1976, transported in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (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.
 43. Nonconforming Use: A building, structure, or use of land lawfully occupied at the time of the effective date of this Ordinance or amendments thereto, and which does not conform to the use of the regulations of the district in which it is situated.
 44. Noxious Matter: "Noxious matter" is a material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being or comfort of humans.
 45. Occupancy: The use or intended use of the land or building by proprietors or tenants.

46. Open Space or Open Areas: Area included in any side, rear, or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves, or porches.
47. Open Storage: "Open storage" is the storage of any equipment, machinery, commodities, raw or semi-finished materials, and building materials, not accessory to a residential use which is visible from any point on the building lot line when viewed from ground level to six feet (6') above ground level.
48. Park, Playground, Community Center: An open recreation facility or park owned and operated by a general public agency and available to the general public.
49. Parking Space: A "parking space" is a surface area, enclosed or unenclosed, sufficient in size to store one automobile together with a surface driveway connecting the parking space with the street or alley and permitting ingress or egress of an automobile.
50. Plat: A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City of Weston and subject to approval by the Planning & Zoning Commission. Reference to a Plat in this Ordinance means an official Plat of Record which has been approved by the Planning & Zoning Commission and filed in the plat records of Collin County.
51. Premises: Land together with any buildings or structures occupying it.
52. Private Garage: An accessory building housing vehicles owned and used by occupants of the main buildings; if occupied by vehicles of others, it is a storage place.
53. Public Park: A "public park" is any publicly owned park, playground, parkway, greenbelt, or roadway within the jurisdiction and control of the City.
54. Recreation Area: A "recreation area" is a privately owned park, playground, or open space maintained by a community club, property owners' association, or similar organization.
55. Residence: Same as a dwelling; also, when used with District, an area of residential regulations.

56. Restaurant or Cafeteria: An eating establishment where service to customers at tables and not involving service of food to customers in automobiles.
57. Rest Home or Nursing Home: A "rest home" or "nursing home" is a private facility for the care of children or the aged or infirmed or a place of rest for those suffering bodily disorders. Such homes do not contain facilities for surgical care or the treatment of disease or injury.
58. Retail Stores and Shops: Offering all types of consumer goods for sale, but excluding the display and sale in the open outside a building, of new or used automobiles, heavy machinery, building materials, used appliances, furniture, or salvage materials.
59. Rooming House: A residence structure, other than a hotel, used for lodging only for three (3) or more persons for compensation.
60. School, Private: A school under the sponsorship of a private agency or corporation other than a public agency.
61. School, Public or Parochial: A school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including private, trade, or commercial schools.
62. Schools, Trade and Commercial: Establishments, other than public or parochial schools, private primary or secondary schools, or colleges, offering training or instruction in a trade, art, or occupation.
63. Screening Device: A "screening device" shall consist of a barrier of stone, brick, pierced brick or block, uniformly colored wood, or other permanent material of equal character, density, and acceptable design at least four feet (4') in height, where the solid area equals at least sixty-five percent (65%) of the wall surface, including an entrance gate or gates; or foliage or an acceptable type of a density that will not permit through passage; or an acceptable combination of these materials. Such screening device shall be continuously maintained.
64. Servant's Quarters: A "servant's quarters" is an accessory building or portion of a main residential building located on the same lot as the principal residential building, occupied only by such persons and their families as are employed full-time by the occupants of the principal residence.

65. Service Station: The "service station" or "filling station" is any building or premises used for the dispensing, sale, or offering for sale at retail of any automobile fuels or oils. If the dispensing, sale, or offering for sale is incidental to a public garage, the premises shall be classified as a public garage.
66. Sign: A "sign" is a name, identification, description, display, or illustration which is affixed to, or represented directly or indirectly upon, a building, structure, or piece of land and which directs attention to an object, product, place, activity, institution, or business. A "sign" is not a display of official court or public office notices nor is it a flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed building.
- a. Sign, Advertising: An "advertising sign" is a sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located, or to which it is affixed.
- b. Sign, Business: A "business sign" is a sign which directs attention to a business or profession conducted, or to a commodity, service, or entertainment sold or offered upon the premises.
- c. Sign, Flashing: A "flashing sign" is an illuminated sign on which the artificial light is not maintained stationary, or in constant intensity of color at all times when such sign is in use. Flashing signs are expressly prohibited by this Ordinance. For the purpose of this Ordinance, any revolving illuminated sign shall be considered as a flashing sign.
- d. Sign, Illuminated: An "illuminated sign" is any sign designed to reflect light from one or more sources, natural or artificial save and except vending machines and directional signs.
67. Specific Use: A "specific use" is a means for developing certain designated uses in a manner in which the specific use will be compatible with the adjacent property and consistent with the character of the neighborhood.
68. Story: The height between the successive floors of a building or from the top floor to the roof. The standard height for a story is eleven feet, six inches (11' 6") .

69. Street: Any thoroughfare or public driveway, other than an alley, and more than twenty-four feet (24') in width, excluding shoulders and ditches, which has been dedicated to the public for public use.
70. Street Line: A dividing line between a lot, tract, or parcel of land and contiguous street.
71. Structural Alterations: Any change in the supporting member of a building, such as a bearing wall, column, beams, or girders.
72. Toxic Materials: "Toxic materials" are those materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.
73. Use: The "use" of property is the purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied and maintained, and shall include any manner of such activity with respect to the standards of this Ordinance.
74. Use, Principal: A "principal use" is the main use of land or buildings as distinguished from a subordinate or accessory use.
75. Utility Facilities, Private or Franchised: A nonpublic utility requiring specific facilities in residential areas or on public property such as heating, cooling, or communications not customarily provided by the municipality or the normal franchised utilities.
76. Yard: An open space other than a court, on the lot on which a building is situated and which is not obstructed from a point forty inches (40") above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special features.
77. Yard, Front: An open, unoccupied space on a lot facing a street extending across the front of the lot between the side lot lines and from the main building to the front lot or street line and the main building line as specified for the district in which it is located.
78. Yard, Rear: An open, unoccupied space, except for accessory building as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the buildings and the rear lot line as specified in the district in which the lot is located.
79. Yard, Side: An open, unoccupied space or spaces on one or two sides of a main building and on the same lot with the building, situated between

the building and a side line of the lot and extending through from the front yard to the rear. Any lot line not the rear line or a front line shall be deemed a side line.

80. Zoning District Map: The official certified map upon which the boundaries of the various Districts are drawn and which is an integral part of the Zoning Ordinance.

Section 1-5. Compliance with the Regulations.

Except as herein specifically provided:

- A. No land shall be used except for a purpose permitted in the district in which it is located.
- B. No building shall be erected, converted, enlarged, reconstructed, moved, or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located.
- C. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which such building is located.
- D. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulation of the district in which such building is located.
- E. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to the extent specifically provided herein except in conformity with the off-street parking and loading regulations provided herein for the use for which the building is intended.
- F. The minimum yards, parking spaces, and open area, including lot area per dwelling unit, required by this Ordinance for each and every building existing at the time of passage of this Ordinance or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking, nor shall any lot area be reduced below the requirements of this Ordinance for the district in which such lot is located.
- G. Every building hereafter erected or structurally altered shall be located on a building lot as herein defined and, except as specifically provided herein, there shall not be more than one main building on one (1) lot.

ARTICLE 2. ADMINISTRATION AND ENFORCEMENT

Section 2-10. Building Permits.

Every application for a building permit shall be accompanied by a drawing or plot plan in duplicate, together with such other copies as the Building Official may require for City review, showing the lot lines, subdivision name, the lot and block numbers, the location of the building on the lot, accurate dimensions of building and lot, and such other information as may be necessary to provide for the enforcement of the Zoning Regulations. A record of the original copy of such application and plans shall be kept in the office of the Building Official and a duplicate copy of the approved plan shall be at the building at all times during construction.

Section 2-11. Enforcement and Penalties.

- A. Any person, firm, corporation, or political subdivision who violates any of the provisions of these regulations shall be guilty of a misdemeanor and, upon conviction in the municipal court, shall be subject to a fine of not more than \$2,000.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense and such violation is hereby declared to be a common nuisance which may be abated by the City in any manner authorized by law, including injunction and an action for damages.
- B. The defense that an alleged prohibited use is a home occupation is an affirmative defense in any enforcement action under this ordinance.

ARTICLE 3. CHANGES AND AMENDMENTS

Section 3-15. Declaration of Policy.

The Council declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

- A. To correct a manifest error in the regulations or map;
- B. To recognize substantial changed or changing conditions or circumstances in a particular locality; or

- C. To recognize substantial changes in technology, the style of living, or manner of doing business.

Every proposal to amend these regulations shall be considered in light of the above declaration of policy and by the purposes enumerated in the preamble of these regulations.

Section 3-16. Authority to Amend.

The Council from time to time, after receiving a final report thereon by the Commission and after public hearings required by law, may amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts. Any amendment, supplement, or change may be ordered for consideration by the Council, be initiated by the Commission, or be requested by proposal of the owner of the property or by a person holding a lease on the property with the consent of its owner. The Commission on its own motion or on request of Council may initiate consideration of a change in any district boundary or zoning regulation whenever it finds that public benefit will derive from consideration of such matter.

Section 3-17. Procedure.

- A. Proposal Required: Every proposal to amend these regulations shall be considered in light of the above declaration of policy and by the purposes enumerated in Section 1-2, Interpretations and Purposes.
- B. Public Hearing and Notices: Prior to making its report to the Council, the Commission shall hold at least one public hearing thereon. Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners or property, or to the person rendering the same for City taxes, located within two hundred feet (200') of any property affected thereby, within not less than ten (10) days before such hearing is held. Such notice may be served by using the last known address as listed on the City roll and depositing the notice, postage prepaid, in the United States mail. Notice of hearings on proposed changes in zoning regulations shall be accomplished by one publication not less than fifteen (15) days prior thereto in the official paper of the City.
- C. Commission Report: The Commission, after the public hearing is closed, shall prepare its report and recommendations on the proposed change stating its findings and evaluation of the request and of the relationship of the request to the City Plan at such time as the City Plan has been adopted by Council. The Commission may defer its report for not more than ninety (90) days until it has had opportunity to consider other proposed changes which may have a direct bearing thereon. In making its determination, the Commission shall consider the following factors:

1. Whether the uses permitted by the proposed change would be appropriate in the area concerned;
2. Whether adequate public school facilities and other public services (water, etc.) exist or can be provided to serve the needs of additional structures likely to be constructed as a result of such change and the consequences of such change;
3. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.

D. Council Consideration:

1. Proposal Recommended for Approval: Every proposal which is recommended favorably by the Commission shall be forwarded to the Council. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
2. Proposal Recommended for Denial: When the Commission determines that a proposal should be denied, it shall so report and recommend to the Council. No hearing shall be set on the proposal until and unless the Council has reviewed the recommendations of the Commission, has considered any appeal, as provided below, and has adopted a motion setting the matter for hearing.
3. Appeal Procedure: An appeal from the decision of the Commission may be taken whenever any party in interest is aggrieved by the action of the Commission on a specific proposal. Such appeal shall show that the Commission either (a) has been prejudiced in its deliberation or (b) has not been given the opportunity to consider certain information because it could not have been made available to the Commission at the time of its public hearing. The following procedure shall be required:
 - a. The aggrieved party shall reduce to writing their appeal stating specifically how, in their opinion, the Commission committed an error. They shall file their appeal with the City Secretary and the Commission within thirty (30) days following the Commission action. The City Secretary shall forward the appeal to the Council with the regular report of Commission action on the subject proposal.
 - b. Upon receipt of written appeal, the Council shall determine whether or not the Zoning Commission committed error. If the

Council concludes that certain previously unavailable information should be considered by the Commission, it may refer the original proposal and the appeal for a new hearing, new report, and recommendation. If the Council concludes that Commission prejudice prevents a fair hearing or recommendation, the Council may schedule its own hearing on the original proposal and recommendation.

- E. Council Hearing and Notice: The Council may from time to time amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established. A public hearing on such amendment, supplement, or change shall be held by the Council. Notice of Council hearing shall be given by publication one time in the official paper of the City, stating the time and place of such hearing, which time shall not be earlier than fifteen (15) days from the date of publication.
- F. Negative Recommendations and Written Protest: An amendment, supplement, or change shall not become effective except by favorable vote of three-fourths (3/4) of all members of the Council, if:
1. The Commission recommends disapproval of the proposed change; or
 2. Written protest is filed by owners either:
 - a. of the area of the lots or land included in such proposed change; or
 - b. of the lots or land immediately adjoining the area of such proposed change and extending two hundred feet (200') therefrom.

Protests signed by property owners may be filed prior to or at one of the public hearings conducted by either the Commission or the Council. Written protests filed with the Commission shall be forwarded to the Council with the Commission's recommendation on the request.

Section 3-18. Limitation on Re-Application.

When the City Council has denied a proposal, or when the applicant has withdrawn his proposal at the Commission meeting thereon, no new applications of like nature shall be accepted by the City or scheduled for hearing by the Commission within a period of twelve (12) months of the date of the Council denial or applicant's withdrawal. Provided, however, on receipt of written request by the original applicant stating how conditions have changed substantially in the community since prior consideration of his proposal so as to justify an

earlier review of this matter, the City Council may waive the mandatory delay period and authorize the acceptance of a new application.

ARTICLE 4. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES

Section 4-25. Division of Districts.

For the purposes of this Ordinance, the City is hereby divided into ^{four (4)} ~~three (3)~~ districts as follows:

- | | | |
|----|-----|--|
| 1. | AG | Agricultural |
| 2. | R2 | Single family residential, 2 (two) acre lots |
| 3. | C | Commercial |
| 4. | HUD | Manufactured Home District |

The location and boundaries of the districts herein established are shown upon the Official Zoning Map, which is hereby incorporated into this Ordinance. Said Zoning Map, together with all notations, references, and other information shown thereon, and all amendments thereto, shall be as much a part of this Ordinance as if fully set forth and described herein. Said Zoning Map, properly attested, is on file in the office of the City Secretary.

ARTICLE 5. OFFICIAL ZONING MAP

Section 5-30. Maintenance of Zoning Map.

The Official Zoning Map shall be kept in the office of the City Secretary and one (1) copy shall be maintained in the office of the Building Official.

It shall be the duty of the City Secretary to keep the Official Map current and the copies thereof, herein provided for, by entering on such maps any changes which the City Council may from time to time order by amendments to the zoning regulations of the City or the zoning map.

The City Secretary, upon the adoption of this Ordinance, shall affix a certificate identifying the Map in the Secretary's office as the Official Zoning Map of the City. The City Secretary shall likewise officially identify the copies directed to be kept by the Planning & Zoning Commission and in the office of the Building Official. All amendments of the Map shall be made immediately after their enactment and the date of the change shall be noted on the Certificate.

Section 5-31. Rules for the Interpretation of District Boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines, street lines, or highway right-of-way lines shall be construed to be said boundaries.
- B. Where district boundaries are so dedicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are indicated as approximately following a parallel to a drainage course or other prominent physical feature, such drainage course, other prominent physical feature, or parallel line shall be construed to be said boundaries.
- D. Where district boundaries are so indicated that they are approximately parallel to the center line or street lines of streets, or the center lines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimensions are determined by the use of the scale of said Zoning Map.
- E. Where district boundaries are so indicated that they are approximately perpendicular to the center line or right-of-way lines of streets, highways, or drainage courses, such district boundaries shall be construed to be perpendicular to said street, highways, or drainage courses.
- F. If unsubdivided property, the district boundary lines on the Zoning Map shall be determined by use of the scale appearing on the Map.
- G. In the case of a district boundary line dividing a lot into two (2) parts, the district boundary line shall be construed to be the lot line nearest the district boundary line as shown.
- H. Whenever any street, alley, or other public way is vacated by official action of the City Council, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such variation and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

- I. Where the streets or alleys on the ground differ from the streets or alleys as shown on the Zoning Map, the streets or alleys on the ground shall control.

ARTICLE 6. "A" AGRICULTURAL DISTRICT REGULATIONS

Section 6-35. Use Regulations.

This zone is designated to provide for general ranching and farming under a minimum of restrictions. The principle permitted uses include:

- A. All general and special agricultural, farming, ranching, stock and poultry raising, dairy, and other related uses, so long as same do not cause a hazard to health by reason of odor, dust, fumes, noise, or vibration; are not otherwise detrimental to public welfare; and in no case shall poultry or livestock barns or other outbuildings normally used to house animals be nearer than one hundred feet (100') from any property line.
- B. All general and special forestry and other related uses, so long as same are not offensive by reason of odors, dust, fumes, noise, vibration, or unsightly conditions, dispolitation, are not otherwise detrimental to the public welfare.
- C. Mining uses are permitted only by specific permit. A permit will not be granted unless the applicant has plans that are in accordance with all applicable federal and state statutes and regulations, together with a reasonable program of land reclamation.
- D. Public parks and recreation areas.
- E. Houses, barns, stables, corrals, and any other building necessary to perform any principle permitted use.
- F. Greenhouses.
- G. Country clubs or golf courses, riding academies, but not including miniature golf courses, driving ranges, or similar forms of commercial amusement.
- H. Public buildings, including libraries, museums, auditoriums, police and fire stations, and similar public uses.
- I. Other uses may be permitted under the provisions of Article 10, Specific Use Permits.
- J. Principle uses not permitted:

1. No feed lots shall be established for commercial purposes, except as would be required to perform the principle permitted use.
2. No slaughter pens or rendering works, or associated business shall be permitted.
3. No facility or use for the treatment and/or storage of noxious matter, toxic materials or any form of liquid or solid waste materials from any source shall be permitted, except under the provisions of Article 10, Specific Use Permits.
4. At no time shall the residential density exceed one (1) primary single family residence per ten (10) acres, together with one (1) guest or caretaker house.

Section 6-36. Height Regulations.

Same as residential Article 7, Section 7-41.

Section 6-37. Area Regulations.

At any time that there is more than one (1) single-family dwelling per ten (10) acres, the provisions of Article 7, Section 7-42 shall apply. No tract of land or lot less than ten (10) acres shall be zoned agricultural.

**ARTICLE 7. "R2" SINGLE FAMILY
RESIDENTIAL DISTRICT REGULATIONS**

Section 7-40. Use Regulations.

A building or premise shall be used only for the following purposes:

- A. Single-family dwellings as defined herein.
- B. Churches or other places of worship, excluding home Bible study, are allowed by Specific Use Permit only.
- C. Colleges, universities, or other institutions of higher learning are allowed by Specific Use Permit only.
- D. Home occupation.

- E. Farms, nurseries, or truck gardens, limited to the preparation and cultivation of plants, provided no retail or wholesale business is conducted on the premises, and provided further that no shelter for poultry or livestock other than normal household pets shall be located within twenty feet (20') of any property line.
- F. Parks, playgrounds, community buildings, and other public recreational facilities owned and/or operated by the municipality or other public agency.
- G. Public Buildings, including libraries, museums, police and fire stations, and similar physical structures constructed and maintained for the use and benefit of the public.
- H. Real estate sales office during the development of residential subdivisions, but not to exceed one (1) year.
- I. Schools, public elementary or high school are allowed by Specific Use Permit.
- J. School, private, with full curriculum accredited by the State of Texas or equivalent accreditation unit, is allowed by Specific Use Permit.
- K. Temporary buildings for uses incidental to construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
- L. Water supply reservoirs, pumping plants, and towers for use in the storage and distribution of potable water for the community.
- M. Accessory buildings and uses, customarily incident to the above uses and located on the same lot therewith, not involving the conduct of a retail business except as provided herein.
 - 1. The term "accessory use" shall include customary home occupations as herein defined.
 - 2. A billboard, signboard, or advertising sign shall not be permitted as an accessory use except that the placing of an unilluminated "For Sale" or "For Rent" sign not more than six square feet (6 sq. ft.) in area may be permitted as an accessory use, and except that churches and other institutions may display signs showing names, activities, and services therein provided, and that, during construction of a building, one unilluminated sign advertising contractors or architects on such premises shall be permitted, provided that such sign shall be removed immediately upon completion of the building.

3. A detached private garage with or without storeroom and/or utility room or an animal shelter or barn shall be permitted as an accessory building provided that such accessory building shall be located not less than sixty feet (60') from the front lot line nor less than twenty feet (20') from any side or rear lot line and, in the case of corner lots, not less than the distance required for residences from side streets. A garage or servant's quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building.

Section 7-41. Height Regulations.

No building shall exceed thirty-five feet (35') or two and one-half (2-½) stories in height.

Section 7-42. Area Regulations.

A. Size of Yards:

1. Front Yard: There shall be a front yard having a depth of not less than fifty feet (50'). Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets. No required parking shall be allowed within the required front yard.
2. Side Yard: The side yard shall be not less than twenty feet (20') on each side of the lot.
3. Rear Yard: There shall be a rear yard having a depth of not less than twenty feet (20').

B. Size of Lot:

1. Lot Area: No building shall be constructed on any lot of less than two (2) acres (65,340 sq. ft.) unless a lot or tract is less than two (2) acres, but more than one (1) acre and platted and under separate ownership prior to July 1, 1998.
2. Lot Width: The width of the lot shall be not less than one hundred sixty feet (160') at the front street building line, nor shall its average width be less than one hundred ninety feet (190'). The minimum width of a lot on a cul-de-sac shall be not less than thirty-five feet (35') at the property

line, nor shall its average width be less than one hundred ninety feet (190').

3. Lot Depth: The average depth of the lot shall not be less than two hundred feet (200') except that a corner lot may have an average depth of less than two hundred feet (200') provided that the minimum depth is not less than one hundred eighty feet (180').

4. Where a lot having less area, width, and/or depth than herein required exists in separate ownership upon the effective date of this Ordinance, the above regulations shall not prohibit the erection of a one-family dwelling thereon.

C. Minimum Dwelling Size: The minimum floor area of any dwelling shall be twelve hundred fifty square feet (1,250 sq. ft.), exclusive of garages, breezeways, and porches. Two (2) story houses shall have a minimum of one thousand square feet (1,000 sq. ft.) on the first floor.

D. Lot Coverage: In no case shall more than thirty percent (30%) of the total lot area be covered by the combined area of the main buildings and accessory buildings.

E. Setbacks: Swimming pools, tennis courts, soccer fields, etc. shall be behind the front building line and be a minimum of twenty feet (20') from the nearest lot line.

Section 7-43. Miscellaneous Regulations.

A. Antennas:

1. No aerial antenna tower may exceed seventy feet (70').
2. A maximum of one (1) antenna tower per individual homeowner.
3. The antenna setback from all property lines shall exceed the height of the antenna and tower.

B. Mobile Homes are not permitted. A temporary HUD-Code Manufactured Home, by permit only, a minimum of six hundred square feet (600 sq. ft.), is allowed as a temporary residence for a lot owner for eighteen (18) months while the owner is building his permanent home. Upon completion of the home or eighteen (18) months, whichever comes first, the HUD-Code Manufactured Home shall be removed from the City or to a Manufactured Home District.

- C. The first twenty five feet (25') of driveways connecting to concrete or asphalt streets shall be concrete or asphalt.

ARTICLE 8. MANUFACTURED HOME DISTRICT

Section 8-45. Purpose.

It is the intended purpose of this zoning district to provide for a district in which manufactured homes are permitted for single family residential use.

Section 8-46. Use Regulations.

A lot in this zoning district may be used for any use allowed in R2 District as defined in this Ordinance in addition to the use of a HUD-Code Manufactured home for residential purposes. All ordinances of the City, state and federal statutes and regulations that relate to health, safety and welfare shall apply to a manufactured home district.

Section 8-47. Manufactured Home District.

- A. Any area or tract of land that is zoned as a Manufactured Home District is restricted to one (1) single family residence per lot.
- B. Use is limited to a single-family HUD-Code Manufactured Home as defined herein, or a single-family site built home.

Section 8-48. Height, Lot, and Yard Requirements.

Height, lot, and yard requirements shall conform to the following requirements, except that modifications in these regulations may be granted if it shall be found that modifications are in the public interest, are in harmony with the purposes of this Ordinance, and will not adversely affect nearby properties.

- A. The following requirements shall apply to each developed lot:
 - 1. Height Regulations: No building or structure shall exceed twenty six feet (26') in height or two (2) stories.
 - 2. Area Regulations:

a. Size of Lot:

No lot without public sanitary sewer shall be less than two (2) acres.

b. Set backs:

i. Front Yard: There shall be a front yard having a depth of not less than fifty feet (50').

ii. Side Yard: There shall be a side yard on each side of the lot having a minimum width of twenty feet (20').

iii. Rear Yard: There shall be a rear yard having a depth of not less than twenty feet (20').

Section 8-49. Parking Regulations.

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Article 10 of this Ordinance.

Section 8-50. Supports, Tie-Downs and Skirting.

Every HUD-Code Manufactured Home situated in this district must be supported by cinder blocks or concrete piers at a minimum of eight (8) points under the frame of the HUD-Code Manufactured Home, together with eight (8) tie-downs. Each HUD-Code Manufactured Home must be completely skirted within sixty (60) days from the date of installation.

ARTICLE 9. "C" COMMERCIAL DISTRICT REGULATIONS

Section 9-55. General Purpose and Description.

The "C" Commercial District is intended for neighborhood shopping facilities which provide limited business service and office facilities predominately for the convenience of residents of the community.

Section 9-56. Use Regulations.

A building or premises shall be used only for the following purposes:

1. Banks or Savings and Loans.
2. Clinic, medical or dental.
3. Laboratory, medical or dental.
4. Office, general.
5. Optical shop.
6. Studio, art, music, drama, speech.
7. Letter, mimeograph and printing shop - retail only.
8. Garden shop and plant sales, inside.
9. Veterinarian office.
10. Florist shop.
11. Antique shop, enclosed.
12. Bakery or confection shop, retail.
13. Barber or beauty shop.
14. Book, camera or card shop.
15. Clothing and apparel store.
16. Cleaning and laundry pick-up station.
17. Drug store,
18. Drapery, needlework or weaving shop.
19. Food Store.
20. Furniture and appliance.
21. Handicraft or hobby shop.
22. Key shop.

23. Laundry or dry cleaning, self service.
24. Health studio.
25. Paint, wallpaper and hardware.
26. Photography studio.
27. Shoe repair.
28. Restaurant without drive-in service.
29. Tool rental (inside only).
30. Auto parts and accessories, new.
31. Gasoline service station or car care center.
32. Public buildings including fire stations and library.
33. Water reservoirs, pumping plants and wells.
34. Telephone or utility business office.
35. Church or rectory.
36. Boat storage.
37. Glass blowing.
38. Other uses of a similar nature and character.

The following specific uses shall be permitted in the "C" District, when granted in accordance with Article 10:

1. Broadcasting facilities, radios, television or microwave tower.
2. Cemetery or mausoleum.
3. Commercial radio or television transmitting tower.
4. Day nursery, day camp or child care center.
5. Electrical transmission lines and substation.

6. Golf course, private.
7. Lodge or fraternal organization.
8. Nursing home or residence home for aged.
9. School, commercial, trade or craft.
10. School, private or public.
11. Sewage pumping or lift station.
12. Telephone exchange, switching and transmitting equipment.

Section 9-57. Commercial District Building Regulations.

- A. A minimum of 75% of all main building exteriors (excluding windows and doors) shall be constructed of stone, brick, tiles, cement, concrete, or similar materials. Uses of other materials shall be on an exception basis and must be submitted to the Planning & Zoning Commission and City Council by way of an architectural rendering showing all four (4) elevations of the proposed building. Upon approval, the rendering shall become part of the zoning for that site.
- B. All mechanical equipment shall be screened from public view either by landscaping materials or materials that blend with the building.
- C. Refuse collection areas shall be screened from public view.
- D. Parking and drives shall be concrete and developed in accordance with City standards.
- E. Outside storage by specific use permit.
- F. All swimming pools must have protective fence at least four feet (4') in height with a latched gate of a design to prevent children and animals from freely entering the pool. No pool will be closer than twenty feet (20') to any property line.
- G. Where a commercial zoned area or lot abuts a residentially zoned area or lot, a six foot (6') high wooden or masonry is required as a visual barrier and buffer.
- H. Business establishments are subject to the following conditions, which shall be applicable to all uses in a commercial district.

1. The business shall be conducted wholly within an enclosed building;
2. Areas within required setbacks shall not be used for display, sale or storage of merchandise, or for the storage of vehicles, equipment, containers or waste material;
3. All merchandise shall be sold at retail on the premises; and
4. Such use shall not be objectionable because of odor, excessive light, smoke, dust, noise, vibration or similar nuisance.

Section 9-58. Height Regulations.

Height to be determined by a ratio of ten feet (10') in height per fifty feet (50') setback from residential districts but not to exceed thirty feet (30') or two and one-half (2-½) stories in height.

Section 9-59. Area Regulations.

- A. Building Area: The total building area, including accessory buildings, shall not exceed a floor area-to-land ratio of 0.40 to 1.
- B. Lot Area: Minimum two (2) acres net, exclusive of all street rights-of-way and the 100 year flood plain as determined by a registered survey.
- C. Front Yard: Minimum fifty feet (50') from property line.
- D. Side Yard: Minimum fifty feet (50') from property line.
- E. Rear Yard: Minimum fifty feet (50') from property line.

ARTICLE 10. SPECIFIC USE PERMITS

Section 10-65. Public Hearings Concerning Request for Permit.

- A. Any individual, partnership, corporation, or group of persons having a proprietary interest in any property, upon proof of such, may petition the Planning & Zoning Commission for a Specific Use Permit for the tract of land that the petitioners have the proprietary interest.

- B. The Planning & Zoning Commission shall have the proper public hearing notices appear in the area newspaper and be sent to the property owners within two hundred feet (200') of the property for which the Specific Use Permit is requested.
- C. Following the public hearing by the Planning & Zoning Commission, the Commission shall make a recommendation for the City Council at the properly noticed public hearing where the Council shall consider the granting or denial of the Specific Use Permit.
- D. If the Council grants the Specific Use Permit, an ordinance amending the Zoning Ordinance shall be prepared for action by the Council at its next regular meeting.
- E. The conditions imposed by the Council shall be agreed to in writing by the grantee before any building permit or occupancy permit may be issued.

Section 10-66. Specific Use Permit Considered as Amendment.

- A. Each Specific Use Permit granted under the provisions of this Article shall be considered as an amendment to the comprehensive zoning regulations as applicable to such property. In granting any special use permit, the City Council may impose conditions as necessary and which shall be complied with by the grantee before any building permit or occupancy permit may be issued.
- B. Specific Use Permits may be granted for any period of time.
- C. A Specific Use Permit may be transferred from one individual, corporation, partnership, or group of persons to another entity at the same location. No Specific Use Permit shall be transferred from one tract, parcel, or lot in the City of Weston to another tract, parcel, or lot.
- D. A request for renewal of a Specific Use Permit must be filed with the City Secretary at least ninety (90) days prior to its termination or the Specific Use Permit may be terminated on the final date of time period granted.

Section 10-67. Recommendations Considered as Advisory in Nature.

All recommendations made by the City Planning & Zoning Commission to the City Council shall be considered advisory in nature and shall not be binding upon the governing body; the City Council shall have the sole and final authority to grant or deny any request for Specific Use Permits.

Section 10-68. Zoning Map to Show Place of Specific Use.

When the City Council authorizes granting of a Specific Use Permit, the Zoning Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses, said amendment to indicate the specific use by an "S" designation.

ARTICLE 11. FINAL PLAN APPROVAL FOR COMMERCIAL DEVELOPMENT

Section 11-75. Submission of Final Plans.

- A. After approval by the Planning & Zoning Commission of the site plan and landscaping plan (and, in the case of properties in the "C" district only, the architectural plan), the developer shall, within twelve (12) months thereafter, submit to the City nine (9) copies and one (1) mylar copy of the final site plan and the final landscaping plan. At the same time, three (3) copies of the final construction plans for the development shall be submitted to the City and three (3) copies of the final construction plans to the City Engineer.
- B. In the event that the developer does not submit final plans within the twelve (12) months, the plans approved by the Planning & Zoning Commission shall be considered as being void and must be resubmitted to Planning & Zoning Commission along with payment of all appropriate fees.
- C. After acceptance of the final plans by the City Council, one (1) set each of the final site plan, the final landscaping plan, and the construction plans shall be returned to the developer signed by the City Engineer and the Mayor for the City Council that the plans are approved for construction.
- D. All final plans shall be in strict accordance with those approved by the Planning & Zoning Commission including all conditions of approval. It shall be unlawful to issue a building permit prior to final approval of the site plan and landscaping plan by City Council. As to proposed development located in the "C" District, it shall further be unlawful to issue a building permit prior to approval of final construction plans by the City Council.

**ARTICLE 12. OFF-STREET PARKING
AND LOADING REGULATIONS**

Section 12-80. Parking Requirements Based on Use.

In all districts, there shall be provided at the time any building or structure is erected or structurally altered, off-street parking spaces in accordance with the following requirements:

- A. Business (general) or professional office, studio, bank, medical or dental clinic: Three (3) parking spaces plus one (1) additional parking space for each three hundred square feet (300 sq. ft.) of floor area over five hundred feet (500').
- B. Church or other place of worship: One (1) parking space for each three (3) seats in the main auditorium.
- C. Dwellings, single-family: Two (2) parking spaces for each dwelling unit.
- D. Private club, lodge, country club, or golf club: One (1) parking space for each one hundred fifty square feet (150 sq. ft.) of floor area.
- E. Retail Store or Personal Service Establishment except as otherwise specified herein:

<u>Gross Leasable Area</u>	<u>Parking Requirements</u>
0 - 2,499 sq.ft.	10 spaces per 1,000 sq.ft.
2,500 - 9,999 sq.ft.	7.5 spaces per 1,000 sq.ft.
10,000 sq.ft. & Over	5.5 spaces per 1,000 sq.ft.

- F. School, elementary: One (1) parking space for each five (5) seats in the auditorium or main assembly room, or one (1) space for each classroom plus six (6) spaces, whichever is greater.
- G. School, secondary, and college: One (1) parking space for each four (4) seats in the main auditorium or eight (8) spaces for each classroom, whichever is greater.

Section 12-81. Rules for Computing Number of Parking Spaces.

In computing the number of parking spaces required for each of the above uses, the following rules shall govern:

- A. "Floor area" shall mean the gross floor area of the specific use.
- B. Where fractional spaces result, the parking spaces required shall be constructed to the nearest whole number.
- C. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.

Section 12-82. Minimum Distance for Off-Street Parking.

- A. Ninety Degree (90°) Angle Parking: Each parking space shall be not less than nine feet (9') wide nor less than eighteen feet (18') in length. Maneuvering space shall be in addition to parking space and shall be not less than twenty-four feet (24') perpendicular to the building or parking line.
- B. Sixty Degree (60°) Angle Parking: Each parking space shall be not less than nine feet (9') wide perpendicular to the parking angle nor less than eighteen feet (18') in length when measured at right angles to the building or parking line. Maneuvering space shall be in addition to parking space and shall be not less than twenty feet (20') perpendicular to the building or parking line.
- C. Forty-Five Degree (45°) Angle Parking: Each parking space shall be not less than nine feet (9') wide perpendicular to the parking angle nor less than eighteen feet (18') in length when measured at right angles to the building or parking line. Maneuvering space shall be in addition to parking space and shall be not less than eighteen feet (18') perpendicular to the building or parking line.

Section 12-83. Off-Street Loading Space.

Every building or part thereof erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary, or other use similarly involving the receipt or distribution by vehicles of materials or merchandise, shall provide and maintain on the same premises loading space in accordance with the following requirements:

- A. For retail, commercial, sales, service, or industrial use buildings and establishments, off-street loading facilities shall be provided in accordance with the following schedule:

<u>Square Feet of Gross Floor Area</u>	<u>Minimum Required Spaces or Berths</u>
0 to 5,000	None
5,000 to 15,000	1

15,000 to 40,000	2
40,000 to 65,000	3
65,000 to 100,000	4
each additional 50,000	1 additional

- B. For hotels, office buildings, restaurants, and similar establishments, off-street loading facilities shall be provided in accordance with the following schedule:

<u>Square Feet of Gross Floor Area</u>	<u>Minimum Required Spaces or Berths</u>
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
100,000 to 200,000	3
each additional 200,000	1 additional

- C. Each required loading space shall have a minimum size of twelve feet by sixty feet (12' x 60') for R2 and twelve feet by thirty-five feet (12' x 35') for "C" uses with a vertical clearance of at least fourteen feet (14'), together with access and maneuvering areas.
- D. No loading facilities may be located facing any street.
- E. Loading facilities located on the side of a building but not facing a street shall be set back from the front property line a minimum distance of sixty feet (60').

ARTICLE 13. PERFORMANCE STANDARDS

All uses in all districts shall conform in operation, location, and construction to the performance standards hereinafter specified.

Section 13-85. Noise.

At no point at the bounding property line of any use in the "R2" or "C" Districts shall the sound pressure level of any daytime operation or plant exceed the decibel limits specified in the Octave Bands groups designated in the following table:

A. <u>Octave Band Frequencies:</u>	
<u>Octave Band</u>	<u>Maximum Permitted Sound</u>
<u>Cycles Per Second</u>	<u>Pressure Level, Decibels</u>

20 - 75	97
75 - 150	76
150 - 300	70
300 - 600	65
600 - 1,200	63
1,200 - 2,400	58
2,400 - 4,800	55
4,800 - 10,000	53

- B. Corrections: The following corrections shall be made to the Table of Octave Band - Decibel limits in determining compliance with the noise level standards:

<u>Type of Operation or Character of Noise</u>	<u>Correction in Decibels</u>
Noise source operates less than 20% of any one-hour period	Plus 5*
Noise source operates less than 5% of any one-hour period	Plus 10*
Noise source operates less than 1% of any one-hour period	Plus 15*
Noise of impulsive character (hammering, etc.)	Minus 5
Noise of periodic character (hum, screech, etc.)	Minus 5
Noise present at night	Minus 7

* Apply one correction only

- C. "Daytime" shall refer to the hours between 7:00 a.m. and 7:00 p.m. on any given day.
- D. "Bounding property line" shall be interpreted as being at the far side of any street, alley, stream, or other permanently dedicated open space from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between two parcels of property shall be interpreted as the bounding property line.

- E. "Measurement of noise" shall be made with a sound level meter or octave band analyzer meeting the standards prescribed by the American Standards Association.
- F. Exemptions: The following uses and activities shall be exempt from the noise level regulations herein specified:
1. Noises not directly under control of the property uses.
 2. Noises emanating from construction and maintenance activities during daytime hours.
 3. Noises of safety signals, warning devices, and emergency pressure relief valves.
 4. Transient noise of moving sources such as automobiles, trucks, airplanes, and railroads.

Section 13-86. Smoke and Particulate Matter.

No operation or use in any district shall cause, create, or allow the emission for more than three (3) minutes in any one (1) hour or air contaminants which at the emission point or within the bounds or the property are:

- A. As dark or darker in shade as that designated as No. 2 on the Ringleman Chart as published by the United States Bureau of Mines Information Circular 7118, or in violation of the standards specified by the Texas Air Control Board Regulations for the Control of Air Pollution as published by the Texas State Department of Health or as such regulations may be amended.
- B. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke or contaminants in the standard prescribed in (1) above except that: when the presence of uncombined water is the only reason for failure to comply with or when such contaminants are emitted inside a building which prevents their escape into the outside atmosphere, the standards in 8-501(1) and (2) shall not apply.
- C. The open storage and open processing operations, including on-site transportation movements which are the source of wind or airborne dust or other particulate matter; or which involves dust or other particulate air contaminant generating equipment such as used in paint spraying, grain handling, sand or gravel processing or storage or sand blasting shall be so conducted that dust and

other particulate matter so generated is located in concentrations exceeding fifty-four (54) grains per one thousand (1,000) cubic feet of air.

Section 13-87. Odorous Matter.

- A. No use shall be located or operated in any district which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the threshold at the bounding property line or any point beyond the tract on which such use or operation is located.
- B. The odor threshold as herein set forth shall be determined by observation by a person or persons. In any case, where uncertainty may arise or where the operator or owner of an odor emitting use may disagree with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures as specified by American Society for Testing Materials (A.S.T.M.D.) 1391-56 entitled Standard Method for Measurement of Odor in Atmospheres shall be used and a copy of A.S.T.M.D. 1391-57 is hereby incorporated by reference.

Section 13-88. Fire and Explosive Hazard Material.

- A. No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted in any District except that chlorates, nitrates, perchlorates, phosphors, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists, or wholesales may be permitted when approved by the Fire Department.
- B. The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the standards and regulations of the City.

Section 13-89. Toxic and Noxious Matter.

No operation or use permitted in any District shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed ten percent (10%) of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the Texas State Department of Health in Threshold Limit Values Occupational Health Regulations No. 3, a copy of which is hereby incorporated by reference.

Section 13-90. Vibration.

No operation or use in any District shall at any time create earthborn vibration which, when measured at the bounding property line of the source of operation, exceeds the limits of displacement set forth in the following table in the frequency ranges specified:

<u>Frequency Cycles Per Second</u>	<u>Displacement in Inches</u>
0 to 10	.0010
10 to 20	.0008
20 to 30	.0005
30 to 40	.0004
40 and over	.0003

Section 13-91. Glare.

No use or operation in any district shall be located or concentrated so as to produce intense glare or direct illumination across the bounding property line for a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

Section 13-92. Waste Materials.

No use or operation shall discharge into the open, onto the ground, or into any drainageway, open pit, or pond any waste materials, liquids, residue, or by-products for storage, decomposition, disposal, or fill unless approved by the Building Official. Waste materials shall include all the forms of waste as found in Chapter 361 of the Texas Health and Safety Code.

Section 13-93. Animals.

Large animals (over two hundred [200] pounds) are limited to a maximum of three (3) per acre. Swine are prohibited.

ARTICLE 14. HEIGHT AND AREA EXCEPTIONS AND MODIFICATIONS

Section 14-95. Height.

- A. The height regulations prescribed herein shall not apply to church spires, belfries, monuments, tanks, water, and fire towers and spires, chimneys, elevator penthouses, smokestacks, conveyers, flag poles, electric display signs, and necessary mechanical appurtenances.
- B. Public or semi-public service buildings, hospitals, institutions, or schools, where permitted, may be erected to a height not exceeding sixty feet (60') and churches and other places of worship may be erected to a height not exceeding seventy-five feet (75') when each of the required yards are increased by one foot (1') for each foot of additional building height above the height regulations for the district in which the building is located.

Section 14-96. Front Yards.

- A. Where twenty-five percent (25%) or more of the frontage upon the same side of the street between two intersecting streets is occupied or partially occupied by a building or buildings with front yards of less depth than required by this Ordinance, or where the configuration of ground is such that conformity with the front yard provisions of this Ordinance would work a hardship, the Board of Adjustment may permit modifications of the front yard requirements.
- B. In any district, no fence, structure, or planting higher than three and one-half feet (3-½') above the established street grades, nor any tree with foliage extending below ten feet (10') above the established street grades shall be maintained within forty feet (40') of the center of any street intersection.
- C. Open and unenclosed terraces or porches and eave and roof extensions may project into the required front yard for a distance not to exceed four feet (4') provided, however, that no supporting structure for such extensions may be located within the required front yard. An unenclosed canopy for a gasoline filling station may extend beyond the building line but shall never be closer to the property line than twelve feet (12'). The building line of a gasoline filling station shall mean the actual wall of the building and shall not be interpreted as being the curb of a walk or driveway or as the front of a canopy of the columns supporting same.

- D. Where an official line has been established for future widening or opening of street upon which a lot abuts, then the width of a front or side yard shall be measured from such official line of the future street.

Section 14-97. Side Yards.

- A. On a corner lot the width of the yard along the side street shall not be less than any required front yard on the same side of such street between intersecting streets provided, however, that the buildable width of a lot of record shall not be reduced to less than thirty feet (30').
- B. No accessory building shall project beyond a required yard line along any street.
- C. The area required in a yard shall be open to the sky, unobstructed except for the ordinary projections of the window sills, belt courses, cornices, or other ornamental features.
- D. A roof overhang, an open fire escape, or an outside stairway may project not more than three feet (3') into a required side yard.

Section 14-98. Rear Yards.

An accessory building not exceeding twenty feet (20') in height may occupy not to exceed twenty-five percent (25%) of the area of a required rear yard but no accessory building shall be closer than twenty feet (20') to the main building nor closer than twenty-five feet (25') to any rear or side lot line.

ARTICLE 15. NONCONFORMING LOTS AND USES

Section 15-100. Existing Lots Less Than 2 Acres.

Any lot existing prior to the effective date of this ordinance that is less than two (2) acres but more than one (1) acre may be developed so long as the same complies with the ordinances of the City and all regulations relating to on-site sewage disposal.

Section 15-101. Existing Uses.

The lawful use of land existing upon the effective date of this Ordinance although such use does not conform to the provisions hereof may be continued, subject to the provisions hereof.

Section 15-102. Existing Building.

- A. The lawful use of a building existing upon the effective date of this Ordinance may be continued, only in conformance with these regulations, although such use does not conform to the provisions hereof. Such use may be extended throughout such portions of the buildings as are arranged or designed for such use, provided no structural alterations or extensions, except those required by law or ordinance, are made therein.
- B. Nonconforming HUD-Code Manufactured Homes or dwellings existing on the effective date of this ordinance may be replaced with a new unit having a minimum of one thousand square feet (1,000 sq. ft.) by permit.
- C. The continued use of a residential lot to conduct a home occupation shall conform to the requirements for a home occupation detailed herein.

Section 15-103. Voluntary Discontinued Use of a Building for One Year.

In the event an existing nonconforming use of any building or premise is voluntarily discontinued for a period of one (1) year, the use shall thereafter conform to the provisions of the district in which it is located.

Section 15-104. Existing Residence.

A residential dwelling unit having a lesser floor area at the time of the passage of this Ordinance than the minimum floor area required for the district in which it is located shall not be construed to be nonconforming.

Section 15-105. Repairs.

Repairs and alterations may be made to a nonconforming building provided that no structural alterations or extensions shall be made except those required by law or ordinance unless the building is changed to a conforming use.

ARTICLE 16. BOARD OF ADJUSTMENT

Section 16-110. Definition.

The word "Board" when used in this Ordinance shall be construed to mean the Board of Adjustment.

Section 16-111. Organization and Procedure.

- A. Membership: The Board shall consist of five (5) citizens as full-time members of the Board and four (4) citizens as alternate members of the Board who shall serve in the absence of one or more regular members when requested to do so by the Mayor. Each Board member and alternate Board member are to be appointed or reappointed by the Mayor and confirmed by the City Council for staggered terms of two (2) years, respectively. At least one (1) member of the Board shall be a member of the Planning & Zoning Commission and his term shall expire at the same time as his term on such Commission. Each member of the Board shall be removable for just cause by the City Council upon written charges and after public hearing. Vacancies shall be filled by the City Council. The Board shall elect its own chairman, who shall serve for a period of one (1) year or until his successor is elected.
- B. Meetings: Meetings of the Board shall be held at the call of the Chairman and at such times as the Board may determine.
- C. Hearings: The hearings of the Board of Adjustment shall be public, however, the Board may go into executive session for discussion but not for a vote on any case before it. The Board shall hear the intervention of any owner or property adjacent to, in the rear of, or across the street from a lot as to which the granting of any building permit is pending, and shall also hear any other parties in interest. All hearing are to be heard by at least four (4) members of the Board.
- D. Rules and Regulations: 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 records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public record. The Board of Adjustment shall act by resolution in which four (4) members must concur. The Board shall adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of this Ordinance, and shall furnish a copy of the same to the Building Inspector, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

Section 16-112. Appeals.

- A. Procedure: Appeals may be taken to and before the Board of Adjustment by any person aggrieved, or by any officer, department, board, or bureau of the City. Such appeal shall be made by filing with the office of the Board a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the Board of Adjustment all of the papers constituting the records upon which the action appealed from was taken.
- B. Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector shall certify to the Board of Adjustment that, by reason of facts in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of equity, after notices to the office from whom the appeal is taken and on due cause shown.
- C. Notice of Hearing on Appeal: The Board shall fix a reasonable time for the hearing on the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred feet (200') or less of street frontage of any point of the lot or portion thereof on which a variation is desired, and to all other persons deemed by the Board to be affected thereby, such owners and persons being determined according to the current rolls of the City depositing of such written notices in the mail shall be deemed sufficient compliance therewith.
- D. Decision by Board: The Board shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The Board may reverse or affirm wholly or partly or may modify the order, requirements, decision, or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer or department from whom the appeal is taken.

Section 16-113. Powers and Duties of Board.

- A. Subpoena Witnesses, Etc.: The Board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.
- B. Appeals Based on Error: The Board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the Building Inspector in the enforcement of this Ordinance.

C. Special Exceptions: The Board shall have the power to hear and decide special exceptions to the terms of this Ordinance upon which the Board is required to pass as follows or elsewhere in this Ordinance:

1. Permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with any Master Plan and present no conflict or nuisance to adjacent properties.
2. Permit a public utility or public service structure or building in any district with a ground area or of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
3. Grant a permit for the extension of a use, height, or area regulation into an adjoining district which divides a lot into a single ownership on the effective date of this Ordinance.
4. Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty percent (50%) of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.
5. Waive or reduce the parking and loading requirements in any of the districts, whenever the character or use of the building is such as to make unnecessary the full provision or parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
6. Determine, in cases of uncertainty, the classification of any use not specifically named in this Ordinance.

D. Variances: The Board shall have the power to authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done, including the following:

1. Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying

out of these provisions due to an irregular shape of the lot, topographical, architectural consideration, or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.

2. Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this Ordinance relating to the construction or alterations of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this Ordinance as are in harmony with its general purpose and intent, but only when the Board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this Ordinance and, at the same time, the surrounding property will be properly protected.

- E. Changes: The Board shall have no authority to change any provisions of this Ordinance and its jurisdiction is limited to hardship and borderline cases which may arise from time to time. The Board may not change the district designation of any land either to a more restrictive or less restrictive zone.