

TITLE XV: LAND USAGE

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CHAPTER 150: FLOOD DAMAGE PREVENTION

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GENERAL PROVISIONS

§ 150.01 STATUTORY AUTHORIZATION.

The Legislature of the state has in the Flood Control Insurance Act, Tex. Water Code, § 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council does ordain as follows.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.02 FINDINGS OF FACT.

- (A) The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.
- (B) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, flood-proofed, or otherwise protected from flood damage.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.03 PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in floodplains;
- (F) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (G) Ensure that potential buyers are notified that property is in a flood area.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.04 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter uses the following methods:

- (A) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or cause excessive increases in flood heights or velocities;
- (B) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- (D) Control filling, grading, dredging, and other development which may increase flood damage; and
- (E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLUVIAL FAN FLOODING. Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPURTENANT STRUCTURE. A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF FUTURE CONDITIONS FLOOD HAZARD. The land area that would be inundated by the 1% annual chance (100-year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING. A designated AO, AH, AR/AO, AR/AH, or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, or V.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year, also called the **BASE FLOOD**.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FEATURE. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT. Any human-made change to improved and unimproved real estate including, but not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; or storage of equipment or materials.

DISTRICT. The city is divided into districts for the purpose of formulating a Zoning and Planning Ordinance that allows property owners to determine what type of housing and businesses will be allowed in the city. Districts I and III (map attached to Ord. 2011-14a codified herein) allow single-family dwellings, including manufactured homes, to be built in these districts, but no commercial building. District II allows only single-family built homes, excluding manufactured homes or commercial buildings. District IV allows commercial building only. No single-family or manufactured homes may be built in District IV.

ELEVATED BUILDING. For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

EXISTING MANUFACTURED HOME DISTRICT. A manufactured home district for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME DISTRICT. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION STUDY. An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). See **FLOOD ELEVATION STUDY.**

FLOODPLAIN or **FLOOD-PRONE AREA.** Any land area susceptible to being inundated by water from any source (see **FLOODING**).

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS. Zoning ordinances, regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD PROTECTION SYSTEM. Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOOD-PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODWAY. See **REGULATORY FLOODWAY.**

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LEVEE. A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking or vehicles, building access, or storage in an area other than a basement area, is not considered a building's **LOWEST FLOOR**; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of the National Flood Insurance Program § 60.3 regulations.

MANUFACTURED HOME. A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent concrete foundation when connected to the required utilities. **MANUFACTURED HOME** does not include a "recreational vehicle".

MANUFACTURED HOME PARK DISTRICT. Land authorized for manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION. For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME DISTRICT. A manufactured home district for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Communities must regulate development in these floodways to ensure that there are no increases in upstream flood elevations. For streams and other watercourses where FEMA has provided base flood elevations (BFEs), but no floodway has been designated, the community must review floodplain development on a case-by-case basis to ensure that increases in water surface elevations do not occur, or identify the need to adopt a floodway if adequate information is available.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

SPECIAL FLOOD HAZARD AREA. See **AREA OF SPECIAL FLOOD HAZARD**.

START OF CONSTRUCTION. For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), being 16 U.S.C. §§ 3501 et seq., includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual **START** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

VARIANCE. A grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see the National Flood Insurance Program § 60.6 regulations.)

VIOLATION. The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the National Flood Insurance Program § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in **VIOLATION** until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
(Ord. 2011-14a, passed 5-14-2011)

§ 150.06 APPLICATION.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.07 SPECIAL FLOOD HAZARDS IDENTIFIED.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Rate Map (FIRM), Community Number 480695, dated 4-4-2011, and any revisions thereto are hereby adopted by reference and declared to be a part of this chapter.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.08 PERMIT REQUIREMENT.

A floodplain development permit shall be required to ensure conformance with the provisions of this chapter.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.09 COMPLIANCE.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 2011-14a, passed 5-14-2011) Penalty, see § 150.99

§ 150.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.11 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.12 WARNING AND DISCLAIMER.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will

occur and flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2011-14a, passed 5-14-2011)

ADMINISTRATION

§ 150.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Mayor or his or her designee will be appointed the Floodplain Administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 C.F.R. (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.26 DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (A) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter;
- (B) Review permit applications to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding;
- (C) Review, approve, or deny all applications for development permits required by adoption of this chapter;
- (D) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334) from which prior approval is required;
- (E) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation;
- (F) Notify, in riverine situations, adjacent communities and the state's coordinating agency, which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency;
- (G) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained; and

- (H) When base flood elevation data has not been provided in accordance with § 150.07, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source in order to administer the provisions of §§ 150.40 through 150.42.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.27 PERMIT PROCEDURES.

- (A) Application for a floodplain development permit shall be presented to the Floodplain Administrator on forms furnished by him or her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard.
- (B) Additionally, the following information is required:
- (1) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
 - (2) Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;
 - (3) A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing criteria of § 150.41(B);
 - (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
 - (5) Maintain a record of all such information in accordance with § 150.26(A).
- (C) Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this chapter and the following relevant factors:
- (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems;
 - (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, and the effects of wave action, if applicable, expected at the site;
 - (8) The necessity to the facility of a waterfront location, where applicable; and
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.28 VARIANCE PROCEDURES.

- (A) The Appeal Board, as established by the city and appointed by the Mayor, shall hear and render judgment on requests for variances from the requirements of this chapter.
- (B) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.
- (C) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- (D) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (E) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or State Inventory of Historic Places without regard to the procedures set forth in the remainder of this chapter.
- (F) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to, and surrounded by, lots with existing structures constructed below the base flood level; providing the relevant factors in § 150.27(C) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (G) Upon consideration of the factors noted above and the intent of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter (§ 150.03).
- (H) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (I) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (J) Prerequisites for granting variances.
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon:
 - (a) Showing a good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in:
 - 1. Increased flood heights;
 - 2. Additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of, the public; or
 - 3. Conflict with existing local laws or ordinances.
 - (3) Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(K) Variances may be issued by a community for new construction and substantial improvements, and for other development necessary for the conduct of a functionally dependent use; provided that:

- (1) The criteria outlined in divisions (A) through (I) above are met; and
- (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(Ord. 2011-14a, passed 5-14-2011)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 150.40 GENERAL STANDARDS.

In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements.

- (A) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (B) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (C) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.
- (D) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.
- (G) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.41 SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided, as set forth in §§ 150.07, 150.26(H), or 150.42(C), the following provisions are required.

- (A) **Residential construction.** New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a

certification to the Floodplain Administrator that the standard of this division (A), as proposed in § 150.27(B)(1), is satisfied.

- (B) ***Nonresidential construction.*** New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is water-tight with walls substantially impermeable to the passage of water, and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this division
- (1) A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Administrator.
- (C) ***Enclosures.*** New construction and substantial improvements with fully enclosed areas below the lowest floor that are usable solely for parking or vehicles, building access, or storage in an area other than a basement, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria.
- (1) A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (D) ***Manufactured homes.***
- (1) Require that all manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (2) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites outside of a manufactured home district, in a new manufactured home district, in an expansion to an existing manufactured home district, or in an existing manufactured home district on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (3) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home district with Zones A1-30, AH, and AE on the community's FIRM that are not subject to the provisions of this division (D) be elevated so that either:
- (a) The lowest floor of the manufactured home is at or above the base flood elevation; or

- (b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.42 STANDARDS FOR DISTRICT PROPOSALS.

- (A) All district proposals, including the placement of manufactured home districts, shall be consistent with §§ 150.02 through 150.04.
- (B) All proposals for the development of land, including the placement of manufactured home districts, shall meet floodplain development permit requirements of §§ 150.08, 150.27, and 150.40 through 150.42.
- (C) Base flood elevation data shall be generated for land proposals and other proposed development, including the placement of manufactured home districts which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to §§ 150.07 or 150.26(H).
- (D) All land proposals, including the placement of manufactured home districts, shall have adequate drainage provided to reduce exposure to flood hazards.
- (E) All land proposals, including the placement of manufactured home districts, shall have public utilities and facilities such as septic, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.

(Ord. 2011-14a, passed 5-14-2011)

§ 150.99 PENALTY.

- (A) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations.
- (B) Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor.
- (C) Any person who violates this court order or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500 for each violation and, in addition, shall pay all costs and expenses involved in the case.
- (D) Nothing herein contained shall prevent City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2011-14a, passed 5-14-2011)

CHAPTER 151: SIGNS

Section

- 151.01 Purpose and regulation
- 151.02 Permit requirement
- 151.03 Permit fee
- 151.04 Conditional use permit (CUP)
- 151.05 Revocation
- 151.06 Exceptions
- 151.07 General requirements
- 151.08 Temporary sign permits
- 151.09 Prohibited signs
- 151.10 Existing nonconforming signs
- 151.11 Unlawful signs
- 151.12 Conformance with state laws

- 151.99 Penalty

§ 151.01 PURPOSE AND REGULATION.

- (A) The following rules and regulations shall apply to all outdoor signs, or any portion thereof, as defined below, which are erected, constructed, reconstructed, converted, altered, enlarged, extended, placed, or moved within the city limits.
 - (B) Unless specifically stated, all rules apply to residential and commercial property and to establish reasonable regulations for all exterior signs and structures that serve the purpose of a sign within the incorporated limits of the city in order to:
 - (1) Balance the right of individuals to identify businesses and convey messages within the right of the public to be protected against the unrestricted proliferations of signs;
 - (2) Protect the public health, safety, and welfare;
 - (3) Reduce traffic hazards;
 - (4) Provide for an aesthetically pleasing community; and
 - (5) Protect property values.
- (Ord. 2011-27(f), passed 11-12-2015)

§ 151.02 PERMIT REQUIREMENT.

- (A) Except as provided in § 151.06, no person may erect, construct, reconstruct, convert, alter, enlarge, extend, place, or move a sign, or any portion thereof, within the incorporated city limits without first obtaining a permit and paying the required fee.
- (B) All applications for a sign permit must be made on a form provided by the city and be accompanied by plans and specifications showing the location of the sign, the proposed sign and its method of construction (commercial signs shall be professionally constructed), and any

other information required to show compliance with this chapter and all other applicable city ordinances.

- (C) The city's Code Enforcement Official or designee will examine the application and supporting information and, if the proposed sign complies with this chapter and all other applicable ordinances of the city, will approve a permit for the proposed sign.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 151.99

§ 151.03 PERMIT FEE.

Every applicant for a permit under this chapter must pay the most current permit fees as approved and established by the City Council. The current fee schedule shall be maintained in the city offices.

(Ord. 2011-27(f), passed 11-12-2015)

§ 151.04 CONDITIONAL USE PERMIT (CUP).

An applicant may appeal a denial of a permit by the Enforcement Official or designee to the City Council by filing a request for a CUP with the City Secretary within 30 days after the date the permit is denied. The City Council will send the CUP to the Zoning Commission, which will follow the CUP rules as listed in the most recent version of the zoning ordinance (Ord. 2011-27(f)).

(Ord. 2011-27(f), passed 11-12-2015)

§ 151.05 REVOCATION.

The Code Enforcement Official or designee may revoke a permit if there has been a violation of this chapter or a misrepresentation on the permit application.

(Ord. 2011-27(f), passed 11-12-2015)

§ 151.06 EXCEPTIONS.

A permit is not required for:

- (A) Temporary real estate signs not exceeding six square feet in area and three feet in height in residential zoning districts, and not exceeding 64 square feet in area and 12 feet in height in commercial districts that advertise the property on which the sign is located for sale or lease. The signs must be removed within seven days after the property is sold or leased;
- (B) Temporary political signs for candidates for public office or ballot issues may not be erected earlier than 60 days prior to an election and must be removed within seven days after the election;
- (C) Temporary signs advertising a "garage sale" or "yard sale" not exceeding six square feet in area. These signs may not be posted earlier than three days before and must be removed within one day after the sale;

- (D) Government signs regulating traffic, providing directions to public facilities, or giving notices of general interest to the community;
 - (E) Temporary signs placed on construction sites to identify the contractor, engineer, architect, or developer not exceeding 64 square feet in area. These signs may not be erected prior to approval of a site plan and must be removed within seven days after completion of the project;
 - (F) Private signs regulating traffic on the property on which the sign is located;
 - (G) Flat signs of solid-face construction that are placed against, or attached to, the vertical wall of a building located in a commercial district. These signs may not obstruct any wall opening, may not project beyond the wall to which they are attached, and must be attached at least ten feet above ground level. These signs may only be located on the street side of any commercial establishment located within 200 feet of a residential zoning district;
 - (H) Banners approved by the Code Enforcement Official, or his or her designee. These banners must be safely and securely installed with wires or steel cables and must not be permitted to obstruct any public right-of-way;
 - (I) Temporary signs for special events such as charitable, church, or community activities. These signs may not be posted earlier than three days before and must be removed within one day after the event; or
 - (J) Signs placed in and around parks, lakes, and reserves by the city's Property Owners Improvement Association.
- (Ord. 2011-27(f), passed 11-12-2015)

§ 151.07 GENERAL REQUIREMENTS.

- (A) *Size; height.*
 - (1) Districts I, II, and III which are zoned residential shall have no sign that exceeds six square feet in area or exceeds three feet in height.
 - (2) Districts IV and V which are zoned commercial shall have no building-mounted sign that exceeds 150 square feet in area and exceed eight feet in height, and must be professionally fabricated. Signs mounted on building shall not extend beyond the roofline or sides of the building.
- (B) *Location.* No sign, other than public traffic-control signs and other governmental signs, may be located within the public right-of-way. All signs, including any overhead projections, must be located completely within the boundaries of the property on which they are located.
- (C) *Spacing and size.* Only one free-standing sign located adjacent to a public street will be permitted for each legal lot, unless the lot has more than 200 feet of street frontage. If a lot has more than 200 feet of street frontage, one sign will be permitted every 200 feet. Private traffic-control signs will not be included in this spacing requirement. Pole-mounted signs may not exceed twenty-one feet overall height.
- (D) *Responsible party.* Parties responsible for signs shall be identified as follows:
 - (1) A sign shall have printed upon it, in a legible manner, the name and address of the party responsible for the placement, maintenance, and removal of the sign;
 - (2) A sign shall clearly indicate within its advertising medium the party responsible for the placement, maintenance, and removal of the sign; or

- (3) All signs which do not comply with either division (D)(1) or (D)(2) above shall become the responsibility of the property owner upon which the sign is placed. Such responsibility shall include that of repair, maintenance, or removal as may be necessary.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 151.99

§ 151.08 TEMPORARY SIGN PERMITS.

Temporary signs described in divisions (A) and (B) below may be installed or placed on property for one 30-day period only, subject to compliance with the other provisions of this chapter:

- (A) Temporary real estate directional signs; and
- (B) Portable signs. **PORTABLE SIGNS** include signs with a display surface utilizing removable letters that are readily movable from site to site and signs that are not permanently attached to the ground, a building, or other fixed object, including those installed on trailers or other mobile structures. Portable signs may not exceed five feet by ten feet in area, and may be used only for the following purposes:
 - (1) To promote or advertise the opening of a new business; or
 - (2) To promote or announce charitable, church, community, or public events.

(Ord. 2011-27(f), passed 11-12-2015)

§ 151.09 PROHIBITED SIGNS.

The following signs are prohibited within the city limits.

- (A) *Permit requirement.* No sign may be erected or maintained in violation of the permit requirements of this chapter.
- (B) *Maintenance and removal.*
 - (1) All signs shall be kept in good repair and, unless of galvanized or non-corroding metal or treated with appropriate wood preservative, shall be thoroughly painted as often as is necessary consistent with good maintenance. All braces, bolts, clips, supporting frame, and fastenings shall be free from deterioration, termite infestation, rot, or loosening. In case any sign is not so maintained, the Code Enforcement Official or designee shall give written notice to the owner or lessee thereof to so maintain the sign or to remove the sign.
 - (2) Should any sign in the opinion of the Code Enforcement Official or designee become insecure or in danger of falling or otherwise unsafe, the Code Enforcement Official or designee shall give written notice of the condition of the sign to the person owning, leasing, or responsible for the sign. Such person so notified shall correct the unsafe condition of the sign in a manner to be approved by the Code Enforcement Official or designee in conformity with the provisions of this chapter.
 - (3) In case any sign shall be installed, erected, constructed, or maintained in violation of any of the terms of this chapter, the Code Enforcement Official or designee shall give written notice to the owner, lessee, or person responsible for the sign ordering such owner, lessee, or person to alter the sign so as to comply with this chapter or to remove the sign.

- (4) Any written notice to alter or to remove a sign shall be given by the Code Enforcement Official or designee by first class mail or written notice served personally upon the owner, lessee, or person responsible for the sign, or the owner's agent. If such order is not complied with within fourteen days, the Code Enforcement Official or designee shall revoke the permit and direct the owners, lessee, or person responsible therefore to remove the sign.
- (5) No signs shall be placed on telephone poles or trees.
- (C) *Outdated signs.* No sign may advertise a business or product that is no longer in existence. It must be removed within 30 days of such discontinuation.
- (D) *Obstruction to doors, windows, or fire escapes.* No sign may be erected, relocated, or maintained so as to obstruct any door, window, or fire escape. No sign may be attached to a stand pipe or fire escape.
- (E) *Traffic hazards.* No sign may:
 - (1) Obstruct free and clear vision at any street intersection;
 - (2) Interfere with, obstruct the view of, or be confusingly similar to any authorized traffic sign, signal, or device because of its position, shape, or color; or
 - (3) Make use of the words "stop", "look", "drive-in", "danger", or other word, phrase, symbol, or character that interferes with, misleads, or confuses traffic.
- (F) *Unsafe signs.* No sign may constitute a hazard to safety or health by reason of inadequate design, construction, repair, or maintenance.
- (G) *Illuminated signs.* No sign may be illuminated with lights which glare into or upon the surrounding area or any residential area, or distract operators of vehicles or pedestrians on the public right-of-way.
- (H) *Obscene signs.* No sign may display any matter in which the dominant theme of the material taken as a whole appeals to the prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value.
- (I) *Vehicular signs.* No sign may be painted on, or attached to, a motor vehicle which is not road-worthy.
- (J) *Signs on motor vehicles.* No sign may be placed on motor vehicles for the purpose of circumventing the provisions of this chapter or when the display of such a sign is the primary purpose of the vehicle.
- (K) *Moving signs.* No sign may have visible moving, revolving, or rotating parts or visible mechanical movement of any kind, except for the movable hands on street clocks, or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for time/temperature/date signs.
- (L) *Flashing signs.* No sign with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations seen from a public roadway shall be allowed on private property.
- (M) *Off-premises signs.* No off-premises signs may be erected, constructed, reconstructed, converted, altered, enlarged, extended, placed, or moved within the city limits. **OFF-PREMISES SIGNS** are defined as signs which advertise mainly goods, services, facilities, events, or attractions not available on the premises where the sign is located, or does not identify the owner or occupant or direct traffic on the premises.

- (N) *Signs on private property.* No person shall place a sign on private property or utility easement without the written consent of the owner or agent, or the owner of the private property or utility easement.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 151.99

§ 151.10 EXISTING NONCONFORMING SIGNS.

- (A) Existing nonconforming signs within the city limits at the time of the adoption of this chapter shall be considered to be in compliance with this chapter until they become unsafe, outdated, or inadequately maintained, at which time they must be removed.
- (B) Existing nonconforming signs described in division (A) above may not be repaired or reconstructed if they are determined, in the sole discretion of the Code Enforcement Official or designee, to be unsafe or inadequately maintained. Existing nonconforming signs may not be altered, enlarged, extended, or moved within the city limits. For the purposes of this section, altering does not include altering the face of the sign without enlarging or extending the size of the face of the sign.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 151.99

§ 151.11 UNLAWFUL SIGNS.

If the Code Enforcement Official or designee finds that any sign is prohibited by the provisions of this chapter, the Code Enforcement Official or designee will give written notice to the permittee or the owner of the property upon which the sign is located. If the permittee or owner fails to remove or alter the sign so as to comply with this chapter within fourteen days, the Code Enforcement Official or designee may remove or alter the sign to bring it into compliance and assess the costs to the permittee or owner. The Code Enforcement Official or designee may remove or alter any sign that presents an immediate peril to persons or property immediately and without notice.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 151.99

§ 151.12 CONFORMANCE WITH STATE LAWS.

Anything herein to the contrary, notwithstanding this chapter, shall in no way be construed to permit the erection or maintenance of any sign contrary to the laws of the state now in existence or hereafter enacted.

(Ord. 2011-27(f), passed 11-12-2015)

§ 151.99 PENALTY.

Any person violating any provisions of this chapter will be subject to a fine as noted in § 10.99.

(Ord. 2011-27(f), passed 11-12-2015)

CHAPTER 152: BUILDING CODE

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NONCONFORMING USES AND STRUCTURES

§ 152.001 INTENT OF PROVISIONS.

- (A) Within the districts established by Chapter 154 or amendments thereto, there may exist lots, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before this chapter was enacted, amended, or otherwise made applicable to such lots, structures, or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this chapter to permit such nonconforming uses to continue, as long as the conditions within this section and other applicable sections of the chapter are met.
- (B) Nonconforming uses shall not be enlarged upon, expanded, or extended and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district, except as otherwise provided herein.
- (C) Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

- (D) Other than in the case of a fire or natural disaster in Districts I and III, the owner of a manufactured home may remove the manufactured home from its location and place another manufactured home on the same property, provided that the replacement is a manufactured home of not more than ten years old and the new manufactured home is at least 800 square feet. If a manufactured home is removed in District II, it shall be replaced with a brick or wood home as specified in this chapter.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.002 NONCONFORMING STATUS.

- (A) Any use, platted lot, or structure which does not conform with the regulations of this chapter on the effective date hereof or any amendment hereto, except as expressly provided in § 152.003, shall be deemed a nonconforming use, lot, or structure provided that:
 - (1) Such use, platted lot, or structure was in lawful existence prior to this chapter; or
 - (2) Such use, platted lot, or structure was in existence at the time of annexation to the city, was a legal use of the land at such time, and has been in regular and continuous use since such time.
- (B) Any other use, platted lot, or structure which does not conform with the regulations of the zoning district in which it is located on the effective date of this chapter or any amendment thereto, and except as provided in § 152.003, shall be deemed to be in violation of this chapter and the city shall be entitled to enforce fully the terms of this chapter with respect to such use, platted lot, or structure.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.003 CONTINUING LAWFUL USE OF LAND AND STRUCTURES.

- (A) A nonconforming use or structure may continue to be used, operated, or occupied in accordance with the terms of the regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was annexed.
- (B) A nonconforming structure occupied by a nonconforming use shall be re-occupied by a conforming use, following abandonment of the nonconforming use or change in ownership of property.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.004 ABATEMENT OF NONCONFORMING USES.

- (A) If a nonconforming use is abandoned, any future use of the premises shall be in conformity with the provisions of this chapter, as amended, prior to the time the use was abandoned.
- (B) A nonconforming use shall be deemed abandoned in the following circumstances:
 - (1) The use ceases to operate for a continuous period of six months;

- (2) Where the use occupies a structure, the structure remains vacant for a continuous period of six months;
- (3) In the case of a temporary use, the use is moved from the premises; or
- (4) Property was sold due to delinquent taxes owed or non-payment of a loan.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.005 CHANGING NONCONFORMING USES.

- (A) A nonconforming use shall not be changed to another nonconforming use.
- (B) A nonconforming use may be changed to a conforming use; provided that, once such change is made, the use shall not be changed back to a nonconforming use.
- (C) A conforming use located in a nonconforming structure may be changed to another conforming use.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.006 EXPANSION OF NONCONFORMING USES AND STRUCTURES.

- (A) A nonconforming use may be extended throughout the structure in which it is located, provided that:
 - (1) No alteration shall be made to the structure occupied by the nonconforming use, except those required by law to preserve the integrity of the structure; and
 - (2) The number of dwelling units occupying the structure shall not exceed the number of dwelling units existing at the time the use became nonconforming.
- (B) A nonconforming use occupying a structure shall not be extended to occupy land outside the structure.
- (C) A nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the use became nonconforming, except to provide additional off-street parking or loading areas required by Chapter 154.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.007 RESTORATION OF NONCONFORMING STRUCTURES.

- (A) If more than 50% of the total appraised value of a nonconforming structure, as determined from the records of the County Appraisal District, has been destroyed, it may be rebuilt only in conformity with the standards of this chapter.
- (B) If less than 50% of the total appraised value of a nonconforming structure is destroyed, it may be reconstructed to its original dimensions.
- (C) If a nonconforming structure that is totally or partially destroyed was occupied by a nonconforming use, the nonconforming use may be re-established subject to the limitations on expansion set forth in this section.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.008 RIGHT TO PROCEED PRESERVED.

Nothing contained in this subchapter is intended to alter any rights that may have accrued to proceed under prior regulations, pursuant to Tex. Local Government Code, § 43.002 or §§ 245.001 through 245.006.

(Ord. 2011-27(f), passed 11-12-2015)

ABANDONED/SUBSTANDARD BUILDINGS

§ 152.020 PURPOSE.

This subchapter is adopted so that the City Council may promote the public health, safety, and general welfare within the city through the regulation of substandard and dangerous buildings or structures. By requiring the repair and/or demolition of substandard and dangerous buildings and structures, the City Council seeks to protect property values and prevent bodily injury, death, and property damage within the city limits.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.021 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPRAISED VALUE. The value given the structure by the County Tax Assessor's office.

BUILDING. Any structure of any kind, or any part thereof, erected for the support, shelter, or enclosure of persons, animals, chattel, or property of any kind.

CITY. The City of Ivanhoe, Texas.

CITY COUNCIL. The governing body of the city.

CODE ENFORCEMENT OFFICIAL OR HIS OR HER DESIGNEE. The person(s) appointed by the city to investigate reports of code violations reported to the city and to take steps established by the city for remediation of violations.

DILIGENT EFFORT. Best or reasonable effort to determine the identity and address of an owner, a lien holder, or a mortgagee, including a search of the following records:

- (1) County real property records of the county in which the building is located;
- (2) Appraisal district records of the appraisal district in which the building is located;
- (3) Records of the Secretary of State;
- (4) Assumed name records of the county in which the building is located;
- (5) City tax records; and
- (6) City utility records.

IPMC. The International Property Maintenance Code.

MINIMUM HOUSING STANDARDS. Those standards found in the city's adopted standard building, electrical, plumbing, gas, mechanical, existing building and fire prevention codes, and any other housing and structure regulations adopted under Tex. Local Government Code, Ch. 214.

OWNER. Any person, agent, firm, corporation, or other entity named in the real property records of the county where the building is located as owning the property.

STRUCTURE. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built or composed of parts joined together in some definite manner, or any part thereof. (Ord. 2011-27(f), passed 11-12-2015)

§ 152.022 DECLARATION OF NUISANCE.

Any building or structure requiring repair, removal, or demolition, as described and defined herein below, and all buildings or structures within the city which, because of their condition, are unsafe, unsanitary, or otherwise dangerous to the health, safety, and general welfare of the citizens of the city are hereby declared to be a public nuisance and unlawful and subject to the provisions of this subchapter regarding repair, removal, or demolition.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 152.999

§ 152.023 SUBSTANDARD BUILDING CONDITIONS.

The following standards shall be utilized in determining whether a building should be ordered repaired, removed, or demolished.

- (A) The building or structure is liable to partially or fully collapse.
- (B) The building or structure was constructed or maintained in violation of any provision of the city's Building Code or any other applicable ordinance or law of the city, county, state, or federal government.
- (C) Any wall or other vertical structure members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle one-third of its base.
- (D) The foundation or the vertical or horizontal supporting members are 25% or more damaged or deteriorated.
- (E) The non-supporting coverings of walls, ceiling, roofs, or floors are 50% or more damaged or deteriorated.
- (F) The structure has improperly distributed loads upon the structural members, or the structural members have insufficient strength to be reasonably safe for the purpose used.
- (G) The structure, or any part thereof, has been damaged by fire, water, earthquake, wind, vandalism, or other cause to such an extent that it has become dangerous to the public health, safety, and welfare.
- (H) The structure does not have adequate light, ventilation, or sanitation facilities as required by the city.
- (I) The structure has inadequate facilities for egress in case of fire or other emergency, or has insufficient stairways, elevators, fire escapes, or other means of ingress or egress.

- (J) The structure, because of its condition, is unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the city's citizens, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects reasonably calculated to spread disease.
(Ord. 2011-27(f), passed 11-12-2015)

§ 152.024 INSPECTION.

- (A) No water, gas service, or electricity shall be provided to any dwelling unit found to be substandard, which is or becomes vacant, until such dwelling unit has been brought into compliance with the provisions of this subchapter. If an on-site septic facility does not exist, a permit to install one must be part of the compliance provisions of this subchapter.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.025 NOTICE OF VIOLATION.

- (A) Whenever a violation of this subchapter has been discovered and reported by the Code Enforcement Official or his or her designee, a public hearing shall be held by the City Council to determine whether a building complies with the standards set out in this subchapter.
- (B) A notice of the hearing shall be sent to the occupant, if any, and record owner, lien holder, or mortgagee. Such notice shall be in writing and shall be served by personal delivery or by certified mail return receipt requested. Additionally, a copy of the notice shall be posted on the front door of each affected structure situated on the property or as close to the front door as practicable. It is not necessary that the notice to the occupant of the property list an occupant by name. Service of the notice may be accomplished by the first-class U.S. mail or by personal delivery to any occupant of the property who is above the age of 18 years.
- (C) The notice shall contain:
- (1) The names of all persons to whom notice is being served;
 - (2) The street address or legal description of the premises;
 - (3) The date of inspection;
 - (4) The nature of the violation;
 - (5) The date, time, and location of the hearing; and
 - (6) A statement that the owner, lien holder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the subchapter and the time it will take to reasonably perform the work.
- (D) Upon placement of notice on the building or as close to the front door as practicable, a person commits an offense if, without authority from the Code Enforcement Official or his or her designee:
- (1) He or she defaces, removes, or destroys a notice placed or caused to be placed by the Code Enforcement Official or his or her designee;
 - (2) He or she enters, occupies, or otherwise uses a structure on which notice has been placed;
- or

- (3) As owner or operator of a structure, he or she authorizes a person to enter, occupy, or otherwise use a structure on which notice has been placed.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 152.999

§ 152.026 PUBLIC HEARING.

- (A) The date of the hearing shall not be less than fourteen days after notice is made (as described in § 152.024).
- (B) If a building is found to be in violation of this subchapter, the city shall require the owner, lien holder, or mortgagee of the building to, within 30 days, repair, remove, or demolish the building, unless it is proven at the hearing that the work cannot reasonably be done in 30 days.
- (C) If the city allows more than 30 days for the building to be repaired, removed, or demolished, the city shall establish specific time schedules for the work to be commenced and performed and shall require the owner, lien holder, or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the hearing official.
- (D) The city shall not allow the owner, lien holder, or mortgagee more than 90 days to repair, remove, or demolish the building or fully perform all work required to comply with the order, unless a detailed plan and time schedule for the work are submitted at the hearing and it is proven at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work. Additionally, the owner, lien holder, or mortgagee must submit work progress reports to demonstrate compliance with the time schedule established.
- (E) In any case where repairs are estimated to cost 50% or more of the appraised value, a building shall be demolished or removed, and in all cases where a structure cannot be repaired so that it will no longer exist in violation of the provisions of this subchapter, it shall be demolished or removed.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Building removal, see Tex. Local Government Code, Ch. 54 and 214

§ 152.027 ORDER FOR REPAIR OR DEMOLITION.

- (A) After the public hearing, the city may order that the owner, lien holder, or mortgagee to, within 30 days:
- (1) Secure the structure from unauthorized entry (if the city secures the structure prior to a hearing, notice and similar procedures are still required); or
 - (2) Repair, remove, or demolish the structure, unless the owner or lien holder establishes at the hearing that the work cannot reasonably be performed within 30 days.
- (B) If the building is ordered to be repaired, removed, or demolished, the city shall promptly mail by certified mail, return receipt requested, or personally deliver a copy of the order to the owner of the building and to any lien holder or mortgagee of the building. The city shall make a

diligent effort to discover each owner, mortgagee, and lien holder having an interest in the building or property on which the building is located.

- (C) If the ordered action is demolition of the building or structure, demolition supported by a probable cause affidavit stating that: the building or structure constitute a nuisance; the city has complied with the procedures set forth in this subchapter; demolition has been ordered by the city; and the time for appeal of the order to district court has expired and no appeal has been taken or, in the alternative, the order was appealed to district court but the appeal has been finally resolved in a manner that does not prevent the city from proceeding with demolition.
- (D) If ordered action is repair to the structure, said structure shall be brought into compliance with the provisions of the current IPMC adopted by the city. Repairs to such structures shall be completed and a certificate of occupancy issued within a period not exceeding 150 days from the date action ordered.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Repair or removal, see Tex. Local Government Code, Ch. 214.001(h)

Unauthorized entry, see Tex. Local Government Code, Ch. 214.0011

§ 152.028 NOTICE OF REPAIR OR DEMOLITION.

- (A) In addition to the order, each identified mortgagee or lien holder shall be sent a notice containing:
 - (1) An identification of the building and property on which it is located (this does not have to be a legal description);
 - (2) A description of the violation of the subchapter; and
 - (3) A statement that the municipality may demolish the building if the ordered action is not taken.
- (B) If the notice is returned “refused” or “unclaimed”, the validity of the notice is not affected and the notice shall be deemed delivered.
- (C) Within ten days after the date that the order is issued, the city shall:
 - (1) File a copy of the order in the office of the City Secretary; and
 - (2) Publish a notice in a newspaper of general circulation in the city (and where the building is located) stating:
 - (a) The street address or legal description of the property;
 - (b) The date of the hearing;
 - (c) A brief statement indicating the results of the order; and
 - (d) Instructions as to where a complete copy of the order may be obtained.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Notice, see Tex. Local Government Code, Ch. 214.001(r)

Published notice, see Tex. Local Government Code, Ch. 214.001(f)

§ 152.029 APPEAL.

The owner, lien holder, or mortgagee shall have the right to appeal the decision made at the hearing to a district court. A notice of appeal must be filed with the district court within 30 calendar days from the date the order is mailed to the owner, lien holder, or mortgagee, as provided herein.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Appeal, see Tex. Local Government Code, Ch. 214.0012(a)

§ 152.030 DEMOLITION AND REPAIR EXPENSES.

- (A) Whenever it is discovered upon re-inspection that the owner, mortgagee, or lien holder has failed to repair, remove, or demolish the building or take other ordered action within the allotted time, the city shall make a diligent effort to discover each mortgagee and lien holder having an interest in the building or in the property which the building is located and shall personally deliver or send by certified mail, return receipt requested, to each a notice containing:
 - (1) An identification of the building and property on which it is located (this does not have to be a legal description);
 - (2) A description of the violation of the subchapter; and
 - (3) A statement that the municipality will remove or demolish the building if the ordered action is not taken.
- (B) Whenever it is discovered upon re-inspection that the owner, mortgagee, or lien holder has failed to repair, remove, or demolish the building or take other ordered action within the allotted time, the city or its authorized agent may repair, remove, or demolish and remove said building or cause the same to be done and charge the expenses incurred in doing such work or having the same done to the owner, mortgagee, or lien holder of said land, or otherwise assess the expenses against the property on which the building is located.
- (C) If such work is done at the expense of the city, then the said expense shall be assessed against any salvage resulting from the demolition of the building and against the lot, tract, or parcel of land, or the premises upon which such expense was incurred.
- (D) For the purposes of this section, any repair, alteration, or improvement made to a building by the city will only be to the extent necessary to bring the building into compliance with the minimum housing standards and only if the building is a residential building with ten or fewer dwelling units; provided, however, the city may elect to obtain a judicial determination by a decree of a court of competent jurisdiction of the existence, in fact, of a public nuisance in cases contemplated by this subchapter. Such judicial determination may include any available remedy for the abatement of such a nuisance.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.031 ASSESSMENT OF LIEN.

- (A) When the city incurs expenses to repair, remove, or demolish a building, the city may assess the expenses on, and obtain a lien against, the property on which the building is located, unless it is a homestead as protected by the state's Constitution.
- (B) The lien arises and attaches to the property when the city has the lien recorded and indexed with the Clerk of the county in which the property is located. The notice shall contain:
 - (1) The name and address of the owner, if that information can be determined with reasonable effort;
 - (2) A legal description of the real property on which the building was located;
 - (3) The amount of expense incurred by the city;
 - (4) The balance due; and
 - (5) The date on which said work was done or improvements made.
- (C) The city shall have a privileged lien on such lot, lots, or other premises or real estate upon which said building was located to secure the expenditure so made, second only to other liens as provided by law. It is further provided, that for any such expenditure suit may be instituted and foreclosure of said lien may be made in the name of the city; and the statement of expenses so made, as aforesaid, or certified copy thereof, shall be prima facie proof of the amount expended for such work or expense.
- (D) The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the city for the expenses.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.032 LIABILITY.

Neither the city nor any authorized agent acting under the terms of this subchapter shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this subchapter.

(Ord. 2011-27(f), passed 11-12-2015)

SECURING OF UNOCCUPIED BUILDINGS

§ 152.045 PURPOSE.

An owner or person in control of an unoccupied building shall ensure that the building is in such condition that an unauthorized person cannot enter into it through missing or unlocked doors or windows, or through other openings into the building. The city may secure unoccupied, unsecured structures 30 days after the owner(s) fail to do so after reasonable notice. A lien may be filed on the structures to assure recovery of the cost of securing.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.046 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

UNSECURED UNOCCUPIED BUILDING. Inclusive of boat houses, storage buildings, sheds, and garages, is hereby defined to be any structure that currently has no legitimate occupant or tenant and which has missing or unlocked doors or windows, or other unsecured openings into the building through which unauthorized persons can enter. Any ***UNOCCUPIED, UNSECURED BUILDING*** is hereby declared to be a danger to the public health and safety.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.047 NOTICE.

- (A) Whenever it is found that an unoccupied building is in such condition that an unauthorized person can enter it through missing or unlocked doors or windows or other openings, the city shall cause a written notice or “notice to secure” to be mailed by first-class mail addressed to the last known address of the owner of record.
- (B) If property owner’s address is unknown, notice may be given by publishing such notice at least twice within a ten-day period in a newspaper of general circulation in the county or notice may be given by posting the notice on or near the front door of the building.
- (C) The notice must contain the following information:
 - (1) An identification which is not required to be a legal description of the building and property on which it is located;
 - (2) The description of the violation of the municipal standards that is present at the building;
 - (3) A statement that the municipality may secure the building within 30 days of the date of notice; and
 - (4) An explanation that the owner is entitled to request a hearing within such 30-day period concerning any matter relating to the municipality’s proposed securing of the building.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.048 COMPLIANCE.

Compliance with the provisions concerning the securing of unoccupied structures does not relieve the owner or occupant of the structure from the requirement to comply with other provisions of this chapter.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.049 APPEAL.

If the owner requests a hearing about the structure, the city shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the proposed

securing of the building by the city. The hearing shall be conducted within 20 days after the day the owner files a written request for such hearing. The hearing shall be before the City Council.
(Ord. 2011-27(f), passed 11-12-2015)

§ 152.050 FAILURE TO COMPLY.

If the owner fails to comply with a notice to secure, the city may order the boarding up of all openings so as to prevent entry or the reasonable securing of the structure by any other reasonable fashion, and may assess the expenses of such securing as a lien on the property as allowed by of the Tex. Local Government Code, § 214.0011(f).
(Ord. 2011-27(f), passed 11-12-2015)

CERTIFICATE OF OCCUPANCY

§ 152.065 REQUIREMENTS.

- (A) Certificates of occupancy shall be required for any of the following:
 - (1) Occupancy and use of a nonresidential building hereafter erected or structurally altered as described in § 152.066;
 - (2) Change in use of an existing building to a use of a different classification;
 - (3) Change in the use of land to a use of a different classification;
 - (4) Occupancy and use of a rehabilitated or reconstructed residential structure that was previously damaged by at least 40% of the structure's appraised value by fire or natural disaster; or
 - (5) Occupancy and use for a new residential or commercial structure.
 - (B) Before certificate is issued, all provisions relating to OSSF in §§ 51.01 through 51.08 and §§ 51.20 through 51.28 must be met.
 - (C) No such use, or change of use, shall take place until a certificate of occupancy has been issued by the city. If use or change of use takes place prior to the certificate of occupancy has been issued, a penalty shall be assessed. See Chapter §§10.99 for penalty.
- (Ord. 2011-27(f), passed 11-12-2015)

§ 152.066 PROCEDURE FOR NEW OR ALTERED BUILDINGS.

- (A) Written application for a certificate of occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building.
- (B) Said certificate shall be issued after the building or structure has been inspected and no violations of the provisions of this subchapter or other city regulations have been found. Said certificate shall be issued by the city or its designee after the erection or alteration of such

building, or part thereof, has been completed in conformity with the provisions of this subchapter.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.067 PROCEDURE FOR VACANT LAND OR A CHANGE IN BUILDING USE.

- (A) Written application for a certificate of occupancy for the use of vacant land, a change in the use of land or a change in the use of a building, or for a change from a nonconforming use to a conforming use, shall be made to the city.
- (B) If the proposed use is a conforming use, as herein provided, written application shall be made to the city. If the proposed use is found to be in conformity with the provisions of this subchapter, the certificate of occupancy shall be issued after the application for same has been made and all required inspections are passed and approved, including OSSF.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.068 CERTIFICATE CONTENTS.

Every certificate of occupancy shall contain the following:

- (A) A building permit number;
- (B) The address of the building;
- (C) The name and address of the owner;
- (D) A description of that portion of the building for which the certificate is issued;
- (E) A statement that the described portion of the building has been inspected for compliance with the requirements of the city for the particular group and division of occupancy;
- (F) Use(s) allowed;
- (G) Maximum number of occupants;
- (H) The issue date of the certificate of occupancy; and
- (I) The zoning district in which the building is located.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.069 CERTIFICATE POSTING.

The certificate of occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the city.

(Ord. 2011-27(f), passed 11-12-2015)

ACCESSORY BUILDINGS

§ 152.080 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING (NONRESIDENTIAL).

- (1) Located in the nonresidential districts and a subordinate building to the main building that does not exceed the height of the main building and does not exceed 50% of the floor area of the main building, and that is used for purposes accessory and incidental to the main use.
- (2) Accessory use for nonresidential is customarily incidental, appropriate, and subordinate to the principal use of land or building(s) and that is located upon the same lot therewith. The land and building area that is used for the accessory use must be significantly less than that used for the primary use, and the gross receipts that is derived from the accessory use must be significantly less than that derived from the primary use.

ACCESSORY BUILDING (RESIDENTIAL). A subordinate building that is attached or detached and is used for a purpose that is customarily incidental to the main structure, but not involving the conduct of a business. The building area is less than that of the main structure as regulated herein. Examples may include, but are not limited to, the following: a private garage for automobile storage, tool shed and greenhouse as a hobby, home workshop, children's playhouse, storage building, or garden shelter. These structures are not used for habitation.

ACCESSORY DWELLING UNIT. A secondary living space that is on-site with a primary living space and that may be contained within the space structure as the primary, or may be contained in a separate structure. Occupants of secondary living spaces typically include a caretaker, servant, or farm worker employed by the owner/occupant, or a guest or family member of the owner/occupant. (Ord. 2011-27(f), passed 11-12-2015)

§ 152.081 REGULATIONS.

Accessory building/accessory dwelling unit, maximum one story, or 18 feet in height for storage or other accessory buildings including a detached garage or accessory dwelling units. Materials used and location of accessory building shall be determined acceptable after permit application, payment of established fee, and inspection by the City Inspector or his or her designee. Under no circumstances shall a storage building be used for habitation.

(Ord. 2011-27(f), passed 11-12-2015)

EXTERIOR CONSTRUCTION AND DESIGN REQUIREMENTS

§ 152.095 EXTERIOR CONSTRUCTION.

- (A) Materials that are allowable per the International Residential Building Code (IRC) for use on exterior surfaces are permitted materials for exterior construction. (Ord. 2011-27(f), passed 11-12-2015)

§ 152.096 CONSTRUCTION STANDARDS.

- (A) The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all new, altered, or repaired construction occurring within the city.
- (B) Residential buildings and structures - Construction materials and methods that are allowable per the International Residential Building Code (IRC) are permitted materials for residential construction.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.097 ELEVATED WATER STORAGE TANKS AND PUMP STATIONS.

All water storage facilities that serve the public shall be designed and painted to compliment natural surroundings. All public water storage facilities shall be placed, to the extent possible, so as to have minimal negative impact on surrounding areas and shall be painted in earth-tone, natural colors. The City Council shall be authorized to approve alternate color selections if such color(s) are more acceptable with surrounding areas.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.098 TEMPORARY CONSTRUCTION BUILDINGS.

Temporary buildings and temporary building material storage areas to be used for construction purposes may be permitted for a specific period of time in accordance with a permit issued by the city and subject to periodic renewal by the city or its designee for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices or buildings and material storage areas shall be removed within 30 days.

(Ord. 2011-27(f), passed 11-12-2015)

NEW CONSTRUCTION/ADDITIONS AND MODULAR HOMES

§ 152.110 REGULATIONS.

- (A) The city is divided into districts. Location of the property will determine the district and the regulations that are in force. Refer to §§ 154.115 through 154.124.
- (B) The city uses the following codes:
 - (1) The International Residential Code (IRC) for one- and two-family dwellings and any revision to this code; and
 - (2) The International Building Code (IBC), and any revision to this code.
- (C) The minimum floor area per dwelling unit shall be 1,000 square feet for SF Residential and 800 square feet for MH Manufactured Home.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.111 PERMIT REQUIRED.

Permits are required for all new construction and additions within the city. Permits are also required for a new roof or roof replacement. Permit applications are available at City Hall. Permits must be applied for and approved after site plan evaluation to assure compliance with current city codes by the City Secretary, Code Enforcement Official, or his or her designee, along with permit fee paid before construction begins. Permit fees will include City Building Inspection fees for two on-site inspections during construction and a final inspection to issue a Certificate of Occupancy. Failure to acquire the required construction permit(s) prior to the start of construction will result in a penalty, not to exceed \$2,000.00. See 10.99 Penalty.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.112 DISPLAY OF PERMIT.

Permit must be displayed in a location visible and legible from the public road/street without requiring entry onto the property.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.113 STOP WORK ORDER.

Stop work orders will be issued if new construction is being performed without proper permit.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.114 MODULAR HOMES.

Modular home placement must follow same procedures set forth for the installation of a manufactured home as far as delivery and placement. Permit shall be required and can be applied for through City Hall.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.115 ON-SITE SEPTIC FACILITY.

On-site sewage facilities (OSSF) shall follow regulations in §§ 51.01 through 51.08 and §§ 51.20 through 51.28.

(Ord. 2011-27(f), passed 11-12-2015)

MANUFACTURED HOMES

§ 152.130 PLACEMENT, PERMIT, AGE OF UNIT.

(A) No manufactured home shall be placed on any lot within the city until a permit has been obtained and approved by the City Secretary or Code Enforcement Official or designee.

(B) No manufactured home over ten years old shall be placed on property located within the city.

(C) No manufactured home shall be placed in District II of the city.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 152.999

§ 152.131 ANCHORING.

Manufactured homes shall be anchored in accordance with the manufacturer's installation instructions as well as supported and blocked in accordance with those standards for manufactured housing found in the administrative rules of the state's Department of Licensing and Regulation.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 152.999

§ 152.132 SKIRTING.

In addition to the anchoring and blocking requirements specified in § 152.131, any manufactured home shall be properly skirted within 30 days of placement. Screened vents are required to be used with all skirting to allow for air circulation.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 152.999

§ 152.133 EXISTING MOBILE OR MANUFACTURED HOME.

- (A) This subchapter does not make unlawful any mobile or manufactured home already in place.
- (B) However, after the effective date of this subchapter, if any nonconforming mobile or manufactured home is removed from its location, the following shall apply.
 - (1) If it is a mobile home, it shall not be allowed to relocate within the city limits.
 - (2) If it is a HUD code manufactured home, all provisions of this subchapter shall apply.
 - (3) In the event a mobile or manufactured home is removed from District II, it shall be replaced with a brick or wood home as specified in this subchapter.

(Ord. 2011-27(f), passed 11-12-2015)

Cross-reference:

District II regulations, see § 152.001

§ 152.134 ON-SITE SEPTIC FACILITY.

See §§ 51.01 through 51.08 and §§ 51.20 through 51.28.

(Ord. 2011-27(f), passed 11-12-2015)

§ 152.999 PENALTY.

- (A) *Authority.* The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law.
- (B) *Civil remedies.*
 - (1) A property owner violating any provision of this chapter shall, upon conviction, be fined a sum not exceeding \$1,000 for each and every day of violation or, if the owner shows the property is the owner's lawful homestead, in an amount not to exceed \$10 per day for each violation, provided that:
 - (a) The owner was notified of the requirements of the chapter and the owner's need to comply with the requirements; and
 - (b) After notification, the owner committed an act in violation of the chapter or failed to take action necessary for compliance with the chapter.
 - (2) If such a civil penalty is assessed, the City Secretary shall file a certified copy of the order containing such amount and duration of the penalty with the County District Clerk's office no later than three working days after such order.
- (C) *Other remedies.* The remedies provided herein shall be available to the city in addition to any penal or other remedy provided by law or equity which the city, state, or any other person may provide to remedy the unsafe building condition.
- (D) *Notice to secure.* An owner who fails to timely comply with a notice to secure, as set out herein, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50 nor more than \$2,000. Each day's failure to comply after the expiration of the notice period shall constitute a separate offense.

(Ord. 2011-27(f), passed 11-12-2015)

CHAPTER 153: TREE PRESERVATION/HARVESTING

Section

- 153.01 Definitions
- 153.02 Clearing of undeveloped lots forbidden
- 153.03 Tree preservation/removal
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- 153.05 Protected trees
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- 153.07 Tree preservation permit submittal and review
- 153.08 Site clean up
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- 153.99 Penalty

§ 153.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUFFER ZONES. The five-foot area located within and along the outer perimeter of a boundary line around lots of one acre or more.

CITY. The City of Ivanhoe, Texas.

CITY COUNCIL. The City Council of Ivanhoe.

PERSON. An individual, firm, corporation, association, or other legal entity.

(Ord. 2011-27(f), passed 11-12-2015)

§ 153.02 CLEARING OF UNDEVELOPED LOTS FORBIDDEN.

- (A) Trees shall not be removed from any undeveloped lot in the city until the owner of the lot or his or her builder has secured an associated building permit from the City Secretary, Code Enforcement Official, or his or her designee. Yaupon may be removed at any time without a permit.
- (B) There shall be no harvesting of timber in the city. **HARVESTING OF TIMBER** is defined as the cutting of trees for the sole purpose of sale or conversion to lumber. Timber removed in conjunction with a valid building permit on a lot may be sold or converted to lumber.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 153.99

§ 153.03 TREE REMOVAL.

The city may require a property owner to remove or prune a tree on private property which threatens the safety of those living on adjacent lots or using a street bordering the property.

(Ord. 2011-27(f), passed 11-12-2015)

§ 153.04 INVASIVE PLANTS.

The following plants/trees will not be permitted to be planted in the city:

- (A) Wisteria vines;
- (B) Bamboo; and
- (C) Tallow trees.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 153.99

§ 153.05 TREE REMOVAL ON UNDEVELOPED AND DEVELOPED LOTS.

Trees are not allowed to be removed for the sole purpose of sale or conversion to lumber. A permit is required for all tree removal. Permits to remove trees on land that is already developed would not require a fee. The application may be obtained at City Hall.

(Ord. 2011-27(f), passed 11-12-2015)

§ 153.06 SITE CLEAN UP.

- (A) Clean-up of debris (tree tops, branches, leaves, and pieces of tree stalk) would need to be accomplished in 30 days or, if a burn ban is in effect during this 30-day period, the time will be extended to 30 days after the ban is lifted.
- (B) The site will be inspected after this 30-day period to ensure that the clean-up has taken place.

(Ord. 2011-27(f), passed 11-12-2015)

§ 153.99 PENALTY.

Any person violating any provision of this chapter will be subject to a fine as noted in § 10.99.

(Ord. 2011-27(f), passed 11-12-2015)

CHAPTER 154: ZONING

Section

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GENERAL PROVISIONS

§ 154.001 ENACTING CLAUSE.

- (A) This chapter is hereby enacted and adopted as the zoning chapter for the city to read as follows.
 - (B) The city adopts the following state statutes cited herein.
 - (C) All city property is exempt from this chapter.
- (Ord. 2011-27(f), passed 11-12-2015)

§ 154.002 TITLE AND PURPOSE.

- (A) *Title.* This chapter shall be known and may be cited as the city's Zoning Ordinance.
 - (B) *Purpose.* As authorized by Tex. Local Government Code, Ch. 211, the zoning regulations and districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the public health, safety, morals, and general welfare, and protecting and preserving places and areas of historical, cultural, and/or architectural importance and significance within the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic, and other dangers; to ensure adequate light and air; to prevent the overcrowding of land and thus avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, wastewater treatment, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, for the character of each zoning district and its particular suitability for the uses specified, and with a view to conserving the value of buildings and attributes and to encouraging the most appropriate use of land throughout the city.
- (Ord. 2011-27(f), passed 11-12-2015)

§ 154.003 ZONING DISTRICT MAP.

- (A) *Division into zoning districts.* The city is hereby divided into zones, or districts, and the boundaries of zoning districts set out herein are delineated upon the Zoning District Map of the city, which may also be cited as the Zoning Map, said map being adopted as a part of this section as fully as if the same were set forth herein in detail.
 - (1) The original of the Zoning District Map shall be filed in the office of the City Secretary and labeled as Zoning Map of the City of Ivanhoe, Texas. The original copy shall be the

Official Zoning District Map and shall bear the signature of the Mayor, attested by the City Secretary, and shall bear the seal of the city under the following words: “This is to certify that this is the Official Zoning Map referred to in § 1-3 of the Zoning Ordinance of the city, adopted on October 9, 2010”. The original map shall not be changed in any manner. In case of any question, this copy, together with amending ordinances, shall be controlling.

- (2) The original Zoning District Map shall be placed in the office of the Mayor/City Secretary or his or her designee. The map shall be used for reference and shall be the City of Ivanhoe, Texas Zoning Ordinance, maintained up-to-date by posting thereon all subsequent amendments. Reproductions for informational purposes may only be made of the Official Zoning District Map or this copy.

- (B) *Zoning map changes/amendments.* Any changes/amendments made to the zoning district boundaries shall be made on the map original promptly after the amendment has been approved by the City Council, together with a descriptive entry on the map as follows:

“On the ___ day of _____, 20___, by official action of the City Council of Ivanhoe, Texas, the following change(s) was made on the City’s Official Zoning District Map: (enter a brief description of the nature of the change), Ordinance No. _____, effective date _____, 20___”. The descriptive entry shall be signed by the Mayor and attested by the City Secretary.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.004 ZONING DISTRICT BOUNDARIES.

- (A) The zoning district boundary lines shown on the Zoning District Map are usually along streets, alleys, property lines, or extensions thereof.
- (B) Where uncertainty exists as to the boundaries of districts as shown on the Zoning District Map, the following rules shall apply.
 - (1) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 - (2) Boundaries indicated as approximately following city limits shall be construed as following city limits.
 - (3) Boundaries indicated as following the centerline of creeks, streams, or drainage ways shall be construed to follow such centerline and, in the event of change in the centerline, shall be construed to move with such centerline.
 - (4) Boundaries indicated as parallel to, or extensions of, features indicated within divisions (B) (1) through (B)(3) above shall be so construed. Distances not specifically indicated on the Zoning District Map shall be determined by the scale of the Map.
 - (5) Whenever any street, alley, or other public way is vacated by official action of the City Council or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or public way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

- (6) The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street unless, as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.005 COMPLIANCE REQUIRED; APPLICATION.

- (A) *Compliance hereafter.* All land, buildings, structures, or appurtenances thereon located within the city which are occupied, used, constructed, erected, removed, placed, demolished, or converted after the effective date of this chapter shall be occupied, used, erected, altered, removed, placed, demolished, or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located, as hereinafter provided, or such shall be subject to penalties provided in §§ 10.21 through 10.23 and 10.99. All of the standards and regulations prescribed herein shall be considered as the minimum requirement as set forth in the International Property Maintenance Code (IPMC) or unless explicitly stated otherwise. No building shall hereafter be erected or altered:
 - (1) To have more narrow or smaller front, side, or rear yards than those required by this chapter;
 - (2) To exceed the maximum height allowed by this chapter;
 - (3) To occupy a greater percentage of lot area than allowed by this chapter; or
 - (4) To accommodate or house a greater number of families than is specified within this chapter for the zoning district in which such building is located.
- (B) *Reference codes for standards.* The city will use the following codes and any revisions thereafter:
 - (1) The International Residential Code (IRC) for one- and two-family dwellings;
 - (2) The International Property Maintenance Code (IPMC);
 - (3) The International Building Code (IBC) for commercial buildings;
 - (4) The Uniform Plumbing Code (UPC) for residential and commercial;
 - (5) The Uniform Mechanical Code (UMC);
 - (6) The National Electrical Code (NEC); and
 - (7) The International Fire Code (IFC).
- (C) *Use conflicting with other regulations.* No use(s) shall be allowed that is prohibited by state or federal law or that operates in excess of state or federal environmental, pollution, or performance standards as determined by the U.S. Environmental Protection Agency (EPA), Texas Air Control Board (TACB), Texas State Department of Health (TSDH), Texas Commission on Environmental Quality (TCEQ), Federal Aviation Administration (FAA), Federal Communications Commission (FCC), or any other applicable state or federal agency, as the case may be.
- (D) *Setbacks, yards, and open spaces.* No lot upon which a building has been erected shall later be so reduced in area that the setbacks, yards, and/or open spaces shall be smaller than those required by this chapter, nor shall a part of a yard or other open space required by this chapter for any building or lot be included as a part of a yard or other open space similarly required for another building or lot.

- (E) *Applications in relation to zoning.* No preliminary or final plat applicable to land that is located within the city limits shall be submitted for approval until the area contained within the plat has been zoned for the proposed use of the property.
- (F) *Existing uses.* All existing uses that may be nonconforming after the effective date of this chapter shall comply with §§ 152.001 through 152.008.
- (G) *Characteristic of the land.* Zoning is considered to be a characteristic of the land rather than a characteristic of the landowner. Zoning cannot be bought or sold.

(Ord. 2011-27(f), passed 11-12-2015)

Cross-reference:

Performance standards, see Titles V and IX

§ 154.006 ZONING UPON ANNEXATION.

- (A) As soon as practical following annexation, but in no event more than 120 days thereafter, the City Council shall, on its own motion or by property owners of the annexed area, initiate proceedings to establish zoning on the newly annexed territory, thereupon the city shall commence public notification and other standard procedures for zoning amendments as set forth in § 154.033. Said proceedings to establish zoning may be undertaken concurrently with annexation procedures. However, zoning approval and formal adoption of the ordinance establishing zoning must occur after annexation approval and adoption has occurred and as a separate and distinct action by the City Council.
- (B) The initial zoning of a land parcel after annexation, whether by initiation of the landowner or by initiation of the city, must meet the requirements for notification and public hearings as set forth in § 154.034 and all other applicable state laws.
- (C) The owner of land to be annexed may submit an application for zoning the property simultaneously with submission of the petition for annexation, but no such annexation application may be made conditioned upon the approval of any particular zoning classification.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.007 AMENDMENTS.

- (A) All ordinances passed subsequent to this code which shall amend, repeal, or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section, or division or any portion thereof, such repealed portions may be excluded from the code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall by prima facie evidence of such subsequent ordinances until such time that this code and subsequent ordinances numbered or omitted are re-adopted as a new code by the City Council.
- (B) Amendments to any of the provisions of this code shall be made by amending such provisions by specific reference to the chapter, section, and division, if applicable, of this code in the following language:

“That chapter____, section____, division _____of the Code of the City of Ivanhoe, Texas, is hereby amended to read as follows:..” The new provisions shall then be set out in full as desired.

(C) In the event an addition not heretofore existing in the code is to be added, the following language shall be used:

“That the Code of the City of Ivanhoe, Texas, is hereby amended by adding a chapter, section, or division to be numbered _____, which said chapter, section, or division reads as follows:...”

The new chapter, section, or division shall then be set out in full as desired.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.008 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLUVIAL FAN FLOODING. Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

APEX. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

APPURTENANT STRUCTURE. A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF FUTURE CONDITIONS FLOOD HAZARD. The land area that would be inundated by the 1% annual chance (100-year) flood based on future conditions hydrology.

AREA OF SHALLOW FLOODING. A designated AO, AH, AR/AO, AR/AH, or VO Zone on a community’s Flood Insurance Rate Map (FIRM) with a 1% or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A is usually refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, or V.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year, also called the **BASE FLOOD**.

BASEMENT. Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FEATURE. An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT. Any human-made change to improved and unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

DISTRICT. The city is divided into districts for the purpose of formulating a Zoning and Planning Ordinance that allows property owners to determine what type of housing and businesses will be allowed in the city. Districts I and III (map attached to Ord. 2011-27(f) codified herein) allow single-family dwellings, including manufactured homes, to be built in these districts, but no commercial building. District II allows only single-family built homes excluding manufactured homes or commercial buildings. District IV allows commercial building only. No single-family or manufactured homes may be built in District IV.

ELEVATED BUILDING. For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

EXISTING CONSTRUCTION. For the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM, or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

EXISTING MANUFACTURED HOME DISTRICT. A manufactured home district for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME DISTRICT. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ELEVATION STUDY. An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). See **FLOOD ELEVATION STUDY**.

FLOODPLAIN OR FLOOD-PRONE AREA. Any land area susceptible to being inundated by water from any source (see **FLOODING**).

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage including, but not limited to, emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS. Zoning ordinances, regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOOD-PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

FLOOD PROTECTION SYSTEM. Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODWAY. See **REGULATORY FLOODWAY.**

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior; or
 - (b) Directly by the Secretary of the Interior in states without approved programs.

INTERMODAL CONTAINER. A large standardized shipping container, designed and built for intermodal freight transport, meaning these containers can be used across different modes of transport – from ship to rail to truck – without unloading and reloading their cargo. **INTERMODAL CONTAINERS** are primarily used to store and transport materials and products efficiently and securely in the global containerized intermodal freight transport system, but smaller numbers are in regional use as well. These containers are known under a number of names, such as simply container, cargo or freight container, ISO container, shipping, sea or ocean container, container van or (Conex) box, sea or c can.

LEVEE. A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM. A flood protection system which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LIGHT INDUSTRIAL. Industry that is usually less capital-intensive than heavy industry, and is more consumer-oriented than business oriented (for example, most light industry products are produced for end users rather than as intermediates for use by other industries). Light industry facilities typically have less environmental impact than those associated with heavy industry, and zoning laws are more likely to permit light industry near residential areas. It is the production of small consumer goods. Some but not all example of light industry would be water company office, construction office, equipment yard with street maintenance and earth extraction equipment (such as, motor trader, trailer, backhoe, track hoe, trucks), storage of road material and fuel tanks and the like.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking or vehicles, building access, or storage in an area other than a basement area is not considered a building's **LOWEST FLOOR**; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of § 60.3 of the National Flood Insurance Program regulations.

MANUFACTURED HOME. A structure transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a "recreational vehicle".

MANUFACTURED HOME PARK DISTRICT. Land authorized for manufactured home lots for rent or sale.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

NEW CONSTRUCTION. For the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, **NEW CONSTRUCTION** means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME DISTRICT. A manufactured home district for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projections, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as temporary living quarters.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

SPECIAL FLOOD HAZARD AREA. See ***AREA OF SPECIAL FLOOD HAZARD.***

START OF CONSTRUCTION. (For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), being 16 U.S.C. §§ 3501 et seq.), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual ***START*** means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual ***START OF CONSTRUCTION*** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

VARIANCE. A grant of relief by a community from the terms of a floodplain management regulation. (For full requirements, see § 60.6 of the National Flood Insurance Program regulations.)

VIOLATION. The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the National Flood Insurance Program § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in ***VIOLATION*** until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. 2011-27(f), passed 11-12-2015; Amendment of 4-14-2016)

PLANNING AND ZONING COMMISSION

§ 154.020 DEFINITION.

The *PLANNING AND ZONING COMMISSION* (also referred to as *THE COMMISSION*) shall function according to the following criteria that establish membership and operating procedures. (Ord. 2011-27(f), passed 11-12-2015)

§ 154.021 COMMISSION ESTABLISHED.

There is created, in accordance with the Tex. Local Government Code, Ch. 211, the Planning and Zoning Commission, hereafter sometimes referred to as the Commission, which shall consist of five people residing within the city. (Ord. 2011-27(f), passed 11-12-2015)

§ 154.022 APPOINTMENT OF MEMBERS.

Members shall be nominated by a Council person of the city, and each person so nominated must be approved by a simple majority vote of the City Council before being appointed as a member of the Commission. (Ord. 2011-27(f), passed 11-12-2015)

§ 154.023 QUALIFICATION OF MEMBERS.

The members of the Commission shall reside within the city and shall, within 90 days after being appointed, complete the open meetings training and provide a copy of certificate of completion to the City Secretary. (Ord. 2011-27(f), passed 11-12-2015)

§ 154.024 TERMS OF OFFICE.

All appointments to the Commission shall serve as a member of the Commission for a term of office of three years, except as noted below. Members may be reappointed with no limitation on the number of terms one member may serve. Upon adoption of this chapter, the City Council shall appoint two members to two-year terms and three members to three-year terms. After the initial terms expire, all members shall serve three-year terms. (Ord. 2011-27(f), passed 11-12-2015)

§ 154.025 OFFICERS ELECTED.

The City Council shall appoint a Chairperson, Vice-Chairperson, and Secretary from among the Commission membership, and each officer shall hold office for one year or until replaced by a simple majority vote of the City Council. The Secretary shall keep minutes of all meetings held by the Commission as well as the full record of all recommendations made by the Commission to the City Council.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.026 VACANCIES.

Any vacancy(s) on the Commission shall be filled via appointment by a simple majority vote of the City Council.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.027 REMOVAL OF MEMBERS.

Members of the Planning and Zoning Commission may be removed from office at any time by a simple majority vote of the City Council either upon its own motion or upon recommendation of the Planning and Zoning Commission. A letter of reprimand shall be issued to the member after he or she has missed two consecutive meetings stating that missing one more will be grounds for dismissal. Failure to attend three consecutive scheduled meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control such as sickness of the member or someone within the member's immediate family. A vote to remove a Commission member shall be placed on the appropriate agenda as a regular item and shall be voted upon accordingly.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.028 COMPENSATION.

The members of the Commission shall regularly attend meetings and public hearings of the Commission, shall serve without compensation, and shall not hold any other office within, or serve as an employee of, the city while serving on the Commission.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.029 MEETINGS.

(A) The Planning and Zoning Commission shall meet in the Civic Center or in some other specified location as may be designated by the presiding Chairperson and at such intervals as may be necessary to orderly and properly transact the business of the Commission, but not less than once each month. If there have been no applications filed for review by the Commission, the City Secretary shall notify the Chairperson and no meeting shall be required for that month.

(B) Meetings shall be conducted in accordance with the Texas Open Meetings Act (TOMA).
(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Meetings, see Tex. Government Code, Ch. 551

§ 154.030 RULES AND PROCEDURES.

(A) The Commission shall have the power to make rules, regulations, and bylaws for its own governance, which shall conform with those set forth by the City Council, and such rules, regulations, and bylaws shall be subject to approval by the City Council. Such rules and bylaws shall include, among other items, provisions for the following:

- (1) Regular and special meetings, open to the public;
- (2) A record of its proceedings, to be open for inspection by the public;
- (3) Reporting to the City Council and the public, from time to time and annually; and
- (4) Reviewing the Comprehensive Plan on a regular basis.

(B) The Commission will follow Robert's Rules of Order and procedures shall not be in conflict with the laws applicable to the Commission on the following.

- (1) *Quorum.* A quorum shall consist of a majority of the membership of the Commission, and any issue to be voted upon shall be resolved by a majority of those members present.
- (2) *Voting.* All Commission members shall be entitled to one vote each upon any question, a quorum being present. The Chairperson shall vote only to break a tie. Voting procedures shall be in accordance with Robert's Rules of Order, but shall not be in conflict with those adopted by the City Council.
- (3) *Conflict of interest.* If any member has a conflict of interest regarding any item on the Commission's agenda, that member shall remove himself or herself from the room and shall refrain from voting only on the item for which a conflict exists. Refer to Tex. Local Government Code, Ch. 171 and any applicable city ethics policies or regulations.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.031 AUTHORITY.

(A) Statutes of the state authorizing and empowering cities to regulate the platting and recording of subdivisions or additions within the city's corporate limits and establishing extraterritorial jurisdiction are hereby adopted, and the Commission, acting through its duly authorized officials, shall have all the rights, powers, privileges, and authority authorized and granted by and through said statutes pertaining to regulation of subdivisions in the city limits and extraterritorial jurisdiction.

(B) The Commission shall have all the rights, powers, privileges, and authority authorized and granted by the City Council and through the statutes of the state authorizing and granting cities the power of zoning and subdivision regulation as found in Tex. Local Government Code, Ch. 211 and 212, as amended from time to time.

- (C) The Commission shall be an advisory body and adjunct to the City Council, and shall make recommendations regarding amendments to the Comprehensive Plan, changes of zoning, zoning ordinance amendments, and zoning to be given to newly annexed areas, and shall make recommendations regarding the approval of plats of subdivisions as may be submitted to it for review and other planning related matters. The Commission shall conduct an annual review of the city's Comprehensive Plan and shall be prepared to make recommendations to the City Council as deemed necessary to keep the city's Comprehensive Plan current with changing conditions and trends, and with the planning needs of the city. The Commission shall also serve in an advisory capacity on any planning related item(s) in the city.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.032 CHANGES AND AMENDMENTS.

- (A) The city declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:
- (1) To correct any error in the regulations or map;
 - (2) To recognize changed or changing conditions or circumstances in a particular locality;
 - (3) To recognize changes in technology, the style of living, or manner of conducting business;
 - (4) To change the property to uses in accordance with the approved Comprehensive Plan; or
 - (5) To make changes in order to implement policies within the Comprehensive Plan.
- (B) In making a determination regarding a written requested zoning change, the Commission and the City Council shall consider the following approval standard factors:
- (1) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the city as a whole;
 - (2) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area;
 - (3) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances which may make a substantial part of such vacant land unavailable for development;
 - (4) The recent rate at which land is being developed in the same zoning classification as the written request, particularly in the vicinity of the proposed change;
 - (5) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved; and
 - (6) Any other factors which will substantially affect the public health, safety, morals, or general welfare.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.033 APPLICATION FOR ZONE CHANGE OR AMENDMENT.

- (A) *Procedure.* Each application for zoning or for an amendment or change to the existing provisions of this chapter shall be made in writing on an application form available at the city in the office of the City Secretary, filed with the city, and shall be accompanied by payment of the appropriate fee. The application shall also be accompanied by additional information materials such as plans, maps, exhibits, legal description of property, architectural elevations, and information about proposed uses, as deemed necessary by the Mayor/City Secretary or his or her designee, in order to ensure that the written request is understood.
- (B) *Notarized statement.* All zoning change requests shall be accompanied by a notarized statement verifying land ownership and, if applicable, authorization of a land owner's agent to file the change request.
- (C) *Official submission date and completeness of application.*
 - (1) For the purpose of these regulations, the official submission date shall be the date upon which a complete application for a zoning change request, which contains all elements and information required by this chapter, is first submitted to the Mayor/City Secretary or his or her designee. No application shall be deemed officially submitted until the Mayor/City Secretary or his or her designee determines that the application is complete and a fee receipt is issued by the city. Failure by the Mayor/City Secretary or his or her designee to make a determination of incompleteness within 15 calendar days following the date on which the application was first received by the city shall result in the application being deemed complete, and the official submission date shall become the calendar day 16 days following initial receipt of the application by the city.
 - (2) Zoning change request applications which do not include all required information and materials will be considered incomplete, shall not be accepted for official submission by the city, and shall not be scheduled on a Commission agenda until the proper information is provided to city staff.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.034 PUBLIC HEARING AND NOTICE FOR REZONING.

- (A) For zoning or rezoning requests involving real property, the Commission shall hold at least one public hearing on each zoning application. For proposed changes to zoning district boundaries including rezoning requests, notice of the Commission hearing shall be accomplished by publishing the purpose, time, and place of the public hearing in the official newspaper of the city before 15 days before the date of the hearing date of the public hearing. Written notice of the public hearing to occur before the Planning and Zoning Commission shall also be sent to all owners of property, as indicated by the most recently approved city tax roll, that is located within the area of application and within 200 feet of any property affected thereby, said written notice to be sent before ten days before the hearing date. Such notice may be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, with first-class postage paid, in the U.S. mail.

- (B) The city may, at its option, establish additional rules and procedures for public notification of proposed zoning changes or development proposals such as site plans, plats, and developer agreements, which may include, but not be limited to, the posting of a sign(s) on any property that is proposed for a zoning change or development by the applicant or its agent(s). Adherence to such rules and procedures, if so established by the city, shall be the responsibility of the applicant and shall be required as part of a zoning change or development application.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.035 FAILURE TO APPEAR.

Failure of the applicant or representative for re-zoning request or CUP to appear before the Commission or the City Council for more than one hearing, without an approved delay by the Mayor/City Secretary or his or her designee, shall constitute sufficient grounds for the Planning and Zoning Commission or the City Council to table or deny the application unless the city is notified in writing by the applicant at least 72 hours prior to the hearing.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.036 COMMISSION CONSIDERATION AND RECOMMENDATION.

- (A) The Commission shall function in accordance with §§ 154.020 through 154.040 and with applicable provisions in the city's code of ordinances.
- (B) The Commission shall hold a public hearing on a zoning or rezoning request and/or a proposed text amendment to the Zoning Ordinance. After all public input has been received and the public hearing closed, the Commission shall make its recommendations on the proposed zoning request and site plan, if submitted, stating its findings, its overall evaluation of the request, and its assessment regarding how the request relates to the city's Comprehensive Plan. The Commission may, on its own motion or at the applicant's request, defer its decision recommendations until it has had an opportunity to consider other information or proposed modifications to the request which may have a direct bearing thereon. If the Commission elects to table the request, such tabling shall specifically state the time period of the tabling by citing the meeting date whereon the request will reappear on the Commission's agenda.
- (C) When the Commission is ready to act upon the zoning request, it may recommend approval of the request as it was submitted by the applicant, approval of the request subject to certain conditions as in the case of a planned development district or a conditional use permit, or disapproval of the request. If the Commission's recommendation is to approve the request either as submitted or with additional conditions, then the request will be automatically forwarded to the City Council for a second public hearing thereon.
- (D) If the Commission recommends denial of the zoning change request, it shall provide reasons to the applicant for the denial if requested by the applicant. The Commission Chairperson shall inform the applicant of the right to receive reasons for the denial.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.037 CITY COUNCIL CONSIDERATION AFTER RECOMMENDATION BY COMMISSION.

- (A) *Applications forwarded from the Planning and Zoning Commission to the City Council.*
- (1) Every application or proposal which is recommended for approval, or approval with conditions, by the Commission shall be automatically forwarded, along with the Commission's recommendation, to the City Council for setting and holding of public hearing thereon following appropriate public hearing notification by notifying applicant of date, time, and place, as well as publishing the purpose, time, and place of the public hearing in the official newspaper of the city before 15 days of the date of the hearing. The City Council may then approve the request, approve it with conditions, or disapprove it by a simple majority vote of the Council members present and voting.
 - (2) An application which is recommended by the Commission for denial shall not be forwarded to the City Council unless the applicant files a written appeal with the City Secretary within ten days after the Commission's decision. Said appeal will, in that instance, be forwarded to the City Council along with the Commission's reasons for denial of the request. The appeal shall be scheduled for the next possible City Council agenda following appropriate public notification as prescribed in division (A)(1) above. Ultimate approval of the request will require a three-fourths majority vote of all members of the City Council. No zoning change shall become effective until after the adoption of an ordinance for same.
- (B) *City Council action on zoning, rezoning, and text amendment requests.* After a public hearing is held before the City Council regarding the zoning application, the City Council may approve the request in whole or in part, deny the request in whole or in part, table the application to a future meeting specifically citing the City Council meeting to which it was tabled, or it may refer the application back to the Commission for further study.
- (1) If the City Council approves the request, then division (D) below will apply.
 - (2) If the City Council denies the request, then no other zoning application may be filed for all or part of the subject tract of land, or for that portion of the Zoning Ordinance, for a waiting period of one year following the denial, or in the case of a text amendment request submitted by a property owner or citizen, for a waiting period of three months following the denial. In the instance that the request was initiated by the City Council and involved a proposed amendment to the text of this chapter, then there is no waiting period before the request can be reconsidered.
 - (3) The City Council may, at its option, waive the one-year period if, after due consideration of the matter at a scheduled and posted meeting, it is determined that denial of the request was based upon erroneous or omitted information, or if substantial new information pertaining to the request is discovered.
- (C) *Protests.* For zoning requests involving real property, a favorable vote of three-fourths of all members of the City Council shall be required to approve any change in zoning when written objections are received from 20% or more of the land area covered by the proposed change, or the land area within 200 feet of the subject property, in compliance with the provisions of the Tex. Local Government Code, § 211.006. If a protest against such proposed amendment, supplement, or change has been filed with the City Secretary, duly signed and acknowledged by

the owners of 20% or more, either of the area of the land included in such a proposed change or those immediately adjacent to the area thereof extending 200 feet there from, such amendments shall not become effective except by a three-fourths vote of all members of the City Council.

- (D) *Final approval and ordinance adoption.* Upon approval of the zoning by the City Council, the applicant shall submit all related material with revisions, if necessary, to the Mayor/City Secretary or his or her designee for the preparation of the amending ordinance. The zoning request shall be deemed approved at the time the City Council makes a decision to approve the request as submitted or with certain conditions. However, the amending ordinance will not be prepared or formally adopted until a correct description and all required exhibits have been submitted to the Mayor/City Secretary or his or her designee.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.038 AUTHORITY TO AMEND.

- (A) The City Council may from time to time, after receiving a final report thereon by the Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning District Map. Any ordinance regulations or zoning district boundary amendment may be requested by the City Council, the Commission, or in writing by the owner of real property or the authorized representative of an owner of real property. Upon such request, the item(s) shall be posted on the next Commission agenda after proper application and notification has been made.
- (B) Consideration for a change in any district boundary line or special zoning regulation may be initiated only by the property owner or his or her authorized agent, or by the Commission or the City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. Proof of authorization by the property owner must be submitted with the zoning application. In the event the ownership stated on an application and that shown in city records are different, the applicant shall submit proof of ownership or verification that he or she is acting as an authorized agent for the property owner.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.039 PUBLIC HEARING AND NOTICE FOR CHANGES/ADDITIONS.

- (A) For requests involving proposed changes or additions to the text of the Zoning Ordinance, notice of the Commission hearing shall be accomplished by publishing the purpose, time, and place of the public hearing in the official newspaper of the city not less than 15 days prior to the date of the public hearing. Changes in the ordinance text which do not change zoning district boundaries, do not establish zoning regulations for specific districts, or do not involve specific real property, do not require written notification to individual property owners.
- (B) Public hearing shall be held as a joint hearing with City Council and the Commission at which time the changes or additions to the current city ordinance will be reviewed and any recommendations from City Council and input from the public will be noted. If needed, the

Commission will schedule a special meeting to review recommendations before submitting final recommendation to City Council to be voted on at the next scheduled City Council meeting.

(C) Parliamentary procedures shall be established by the City Council.

(Ord. 2011-27(f), passed 11-12-2015)

Cross-reference:

Public hearing procedures, see §§ 154.085 and 154.086

§ 154.040 APPLICATION FOR CONDITIONAL USE PERMIT (CUP).

- (A) *General purpose and description.* A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only under certain conditions. Such conditions include a determination that the external effects of the conditional use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of standards and conditions. This section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.
- (B) *Conditional use permit (CUP) required.* No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within a zoning district until a conditional use permit is issued in accordance with the provisions of this section. An application for a conditional use permit shall be accompanied by a site plan prepared in the manner described in § 154.033. The site plan shall illustrate the proposed use to be established, its relationship to adjoining properties, and how it meets the approval standards set forth in § 154.032(B).
- (C) *Status of conditionally permitted uses.* The following general rules apply to all conditional uses.
- (1) The designation of a use in a zoning district as a conditional use does not constitute an authorization or assurance that such use will be approved.
 - (2) Approval of a conditional use permit shall authorize only the particular use for which the CUP is issued.
 - (3) No use authorized by a conditional use permit shall be enlarged, extended, or relocated, nor may the number of dwelling units be increased, unless an application is made for approval of a new conditional use permit in accordance with the procedures set forth in this section.
 - (4) Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by these zoning regulations, the city's code of ordinances, or any permits required by regional, state, and federal agencies.
- (D) *Procedures for conditional use permit.*
- (1) An application along with fee established for a conditional use permit may be submitted by the property owner of record or by the property owner's designated representative to the city. Application shall be accompanied by additional information materials such as plans, maps, exhibits, legal description of property, information about proposed use, or any other requested material for application evaluation. An official submission date will be assigned by the City Secretary once all information submitted has been reviewed. If a zoning change or amendment is required or requested in writing, such application shall accompany the application for a conditional use permit and shall follow procedures set forth in §§ 154.020

through 154.040. The fee for zoning change or amendment and conditional use permits shall apply.

- (2) The Planning and Zoning Commission will either place the application on the next scheduled meeting agenda or schedule a special meeting to review the application. The City Secretary or Commission Chairperson may contact the applicant for additional information during the review process.
 - (3) Once the Planning and Zoning Commission has completed its review, a public hearing date shall be set. A location map that identifies the subject property and all property owners within 200 feet of the subject property will be prepared and notice will be mailed to the property owners as well as the applicant at the address on the most recent approved city tax roll ten days prior to the public hearing date. A legal notice will be published in the local newspaper 15 days prior to the public hearing.
 - (4) During the public hearing, the Commission will present a summary of the proposed conditional use permit application. Persons in support of the proposed request as well as those in opposition will be given an opportunity to speak. Rules will be established for conduction of public hearing according to §§ 154.085 and 154.086.
 - (5) Immediately following the public hearing, the Planning and Zoning Commission will hold a special meeting to make recommendation on the proposed conditional use permit request to City Council. The Commission may recommend approval, approval with conditions, disapproval, or table the request until additional information is received. A conditional use permit that is recommended for disapproval by the Commission will still be scheduled on the agenda at the next monthly meeting of the City Council for consideration.
 - (6) The City Council shall be the final decision maker on applications for conditional use permits and shall schedule a public hearing which will be held either as a special meeting, if needed, or preceding the regular monthly Council meeting. Notice shall be made in the local newspaper 15 days prior to the public hearing. The City Council shall approve, approve with conditions, or disapprove the conditional use permit application in accordance with division (E) below. If the appropriateness of the use cannot be assured at the location, the application for conditional use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.
- (E) *Procedures for conditional use permits.*
- (1) Upon receipt of the recommendation from the Mayor/City Secretary or his or her designee, the Commission shall conduct a public hearing in order to formulate its recommendations to the City Council on the conditional use permit application.
 - (2) Notice of the hearing before the Planning and Zoning Commission shall be accomplished by publishing the purpose, time, and place of the public hearing in the official newspaper of the city 15 days before the date of the hearing. Written notice of the hearing shall be sent to applicant and property owners, as indicated by the most recently approved city tax roll, that are located within 200 feet of any property affected by proposed application and notice to be sent ten days before the hearing date. Such notice may be served by using the last known address as listed on the most recently approved tax roll and depositing the notice, with first-class postage paid, in the U.S. mail.
 - (3) Following the public hearing, the Commission shall recommend approval, approval subject to modification, or denial of the proposal to the City Council in accordance with division

(F) below. If the appropriateness of the use cannot be assured at the location, the Commission shall recommend denial of the application as being incompatible with existing uses or with other uses permitted by right in the district.

- (4) The City Council shall be the final decision-maker on applications for conditional use permits. Following a public hearing by, and in consideration of, the Commission's recommendations, the City Council shall approve, modify, or deny the proposal for a conditional use permit in accordance with division (F) below. If the appropriateness of the use cannot be assured at the location, the application for conditional use permit shall be denied as being incompatible with existing uses or with other uses permitted by right in the district.

(F) *Standards.*

- (1) When considering applications for a conditional use permit, the Commission in making its recommendation and the City Council in rendering its decision on the application shall, on the basis of the site plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The Commission and the City Council shall specifically consider the extent to which:
- (a) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
 - (b) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
 - (c) The proposed use meets all standards specifically applicable to the use as established in current city ordinances; and
 - (d) The proposed use is compatible with, and preserves the character and integrity of, adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts including, but not limited to, the following:
 1. Adequate ingress and egress to property and proposed structures thereon with particular reference to vehicular and pedestrian safety and convenience, and access in case of fire;
 2. Off-street parking areas, loading areas, and pavement type;
 3. Refuse and service areas;
 4. Utilities with reference to location, availability, and compatibility;
 5. Screening and buffering features to minimize visual impacts and/or setbacks from adjacent uses;
 6. Control of signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 7. Required yards and open space;
 8. Height and bulk of structures;
 9. Hours of operation;
 10. Exterior construction material, building design, and building facade treatment;

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11. Roadway adjustments, traffic-control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets;
 12. Provision for pedestrian access/amenities/areas;
 13. The proposed use is not materially detrimental to the public health, safety, convenience, and welfare, or results in material damage or prejudice to other property in the vicinity; and
 14. Noise.
- (2) In approving the application, the Commission may recommend and the City Council shall impose such conditions as are reasonably necessary to assure compliance with these standards and the purpose and intent of this section, in accordance with the procedures in § 154.032. Any conditions imposed shall be set forth in the ordinance approving the conditional use, and shall be incorporated into or noted on the site plan for final approval. The Mayor/City Secretary or his or her designee shall verify that the site plan incorporates all conditions set forth in the ordinance authorizing the conditional use and shall sign the plan to indicate final approval. The city shall maintain a record of such approved conditional uses and the site plans and conditions attached thereto.
- (3) The foregoing standards of development shall not be subject to variances that otherwise could be granted by the Zoning Board of Adjustments, nor may conditions imposed by the City Council subsequently be waived or varied by the Zoning Board of Adjustments. In conformity with the authority of the City Council to authorize conditional uses, the City Council may waive or modify specific standards otherwise made applicable to the use by this chapter to secure the general objectives of this section, provided, however, that the City Council shall not waive or modify any approval factor set forth in division (E) above.
- (G) *Expiration and extension.* Termination of approval of a conditional use for failure to commence development and extension of the time for performance for a conditional use permit shall be governed by the following. If a permit has not been applied for and work, repairs, or demolition are not started within 45 days of the date of CUP approval, the Planning and Zoning Commission or its designee shall give notice by first-class mail addressed to address given on the application to appear before the City Council to show cause why said repairs or demolition has not been started.
- (H) *Amendment.* No proposed or existing building, premises, or land use authorized as a conditional use may be established, enlarged, modified, structurally altered, or otherwise changed from that approved in the conditional use permit, unless such amendment is authorized in accordance with the standards and procedures set forth in this section and the conditional use permit and approved site plan are amended accordingly.
- (I) *Other regulations.* The Zoning Board of Adjustments shall not have jurisdiction to hear, review, reverse, or modify any decision, determination, or ruling with respect to the specific land use designated by any conditional use permit.
- (Ord. 2011-27(f), passed 11-12-2015)

ZONING BOARD OF ADJUSTMENTS

§ 154.055 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

ZBA. The Zoning Board of Adjustments.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.056 CREATED.

There is hereby created a Zoning Board of Adjustments, hereafter referred to as the ZBA, for the purpose, in appropriate cases and subject to appropriate conditions and safeguards, to make special exceptions to the terms of this chapter that are consistent with the general purpose and intent of this chapter. The ZBA may be composed of the members of the City Council as authorized by the Tex. Local Government Code, Ch. 211.008(g).

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.057 APPOINTMENT AND QUALIFICATION OF MEMBERS.

- (A) The Zoning Board of Adjustments may consist of members of the City Council and shall operate in accordance with the Tex. Local Government Code, §§ 211.008 through 211.011, as amended. The City Council may also choose by a simple majority vote to appoint Zoning Board of Adjustments members.
- (B) Each person nominated by the City Council to be a ZBA member must be approved by a simple majority vote of the City Council before being appointed as a member of the Board.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Appointment, see Tex. Local Government Code, § 211.008

§ 154.058 QUALIFICATION OF MEMBERS.

If appointed, the ZBA shall consist of five people as well as two alternates residing within the city. The city shall also appoint one member of City Council to act as liaison. All members shall, within 90 days after being appointed, complete the open meetings training and provide a copy of the certificate of completion to the City Secretary.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.059 TERMS OF OFFICE.

All appointments to the ZBA shall serve as a member for a term of office of two years. Members may be reappointed with no limitation on the number of terms one member may serve.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.060 OFFICERS ELECTED.

The Zoning Board of Adjustments shall elect a Chairperson, Vice-Chairperson, and Secretary from among its membership, and each officer shall hold office until replaced by a simple majority vote of the City Council. The Secretary of the Zoning Board of Adjustments shall keep minutes of all meetings held by the Board.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.061 VACANCIES.

Any vacancy on the Board shall be filled via appointment by a simple majority vote of the City Council.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Variances, see Tex. Local Government Code, § 211.008(c)

§ 154.062 REMOVAL OF MEMBERS.

Members of the Zoning Board of Adjustments may be removed from office at any time by a simple majority vote of the City Council, either upon its own motion or upon recommendation of the Zoning Board of Adjustment. A letter of reprimand shall be issued to the member after he or she has missed two consecutive meetings stating that missing one more will be grounds for dismissal. Failure to attend three consecutive scheduled meetings shall be deemed as neglect and cause for removal from office, unless such absences were due to unusual circumstances beyond the member's control such as sickness of the member or someone within the member's immediate family. A vote to remove a ZBA member shall be placed on the appropriate City Council agenda as a regular item and shall be voted upon accordingly.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.063 MEMBERS SERVICES.

The members of the Board shall regularly attend meetings and public hearings of the Board, and shall be compensated at a rate set by City Council. Members shall not serve as an employee of the city while serving on the Board.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.064 MEETINGS.

(A) Meetings of the Zoning Board of Adjustments shall be held at the call of the Chairperson or Secretary and at such other times as the ZBA may determine. All meetings of the ZBA shall be open to the public.

(B) When meeting as the Zoning Board of Adjustments, the ZBA cannot function as the City Council. Zoning Board of Adjustments hearings must be separate from City Council hearings.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Meetings, see Tex. Local Government Code, §§ 211.008, 211.0075, and Texas Open Meetings Act, Ch. 551

§ 154.065 RULES, REGULATIONS, BYLAWS.

(A) The Zoning Board of Adjustments shall have the power to make rules, regulations, and bylaws for its own governance, which shall conform with those set forth by the City Council, and such rules, regulations, and bylaws shall be subject to approval by the City Council. Such rules and bylaws shall include, among other items, provisions for the following:

- (1) Regular and special meetings, open to the public;
- (2) A record of its proceedings, to be open for inspection by the public; and
- (3) Reporting to the City Council and the public, from time to time and annually.

(B) The Board will follow Robert's Rules of Order, and procedures shall not be in conflict with the laws applicable to the Board on the following.

- (1) *Quorum.* A quorum shall consist of a 75% (four out of five members) of the membership of the Board, and any issue to be voted upon shall be resolved by a majority of those members present.
- (2) *Voting.* A concurring vote of 75% (four out of five members) of the members of the ZBA is necessary to decide in favor of the applicant on a special exception or other matter provided in a zoning ordinance, grant a variance, or reverse an interpretation or other action by the administrative official.
- (3) *Conflict of interest.* If any member has a conflict of interest regarding any item on the Board's agenda, that member shall remove himself or herself from the room and shall refrain from voting only on the item for which a conflict exists. Refer to Tex. Local Government Code, Ch. 171 and any applicable city ethics policies or regulations.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Regulations, see Tex. Local Government Code, §§ 211.0075, 211.009, and Texas Open Meetings Act, Tex. Government Code, Ch. 551

§ 154.066 AUTHORITY.

- (A) (1) The Board of Adjustments shall have the authority granted in the Tex. Local Government Code, §§ 211.008 through 211.011, and those established herein, to exercise powers and to perform duties including the following.
 - (a) Hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by a Code Enforcement Official or designee in the enforcement of this code.
 - (b) Authorize, in specific cases, a variance from the terms of this code if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the code would result in unnecessary hardship, and so that the spirit of this code is observed and substantial justice is done.
 - (c) In exercising its authority under division (A) above, the Zoning Board of Adjustments may reverse or affirm, in whole or in part, or modify the Code Enforcement Official or designee order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Board has the same authority as the Code Enforcement Official or designee.
- (2) The concurring vote of at least 75% of the full Zoning Board of Adjustments is necessary to:
 - (a) Reverse an order, requirement, decision, or determination of a Code Enforcement Official or designee;
 - (b) Decide in favor of an applicant on a matter on which the Board is required to review under this chapter;
 - (c) Authorize a variance from the terms of this code; or
 - (d) Hear and decide special exceptions to this code.
- (B) The Zoning Board of Adjustments may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought, except as provided in § 154.067.
- (C) The Zoning Board of Adjustments shall have no power to grant or modify conditional use permits authorized under § 154.040.
- (D) The Zoning Board of Adjustments shall have no power to grant a zoning amendment. In the event that a written request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the Zoning Board of Adjustments shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment. (See Op. Tex. Att’y Gen. No. JM-493 1986.)
- (E) The Zoning Board of Adjustments shall not grant a variance for any parcel of property or portion thereof upon which a site plan, construction plat, or final plat, where required, is pending on the agenda of the Commission and, where applicable, by the City Council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the Zoning Board of Adjustments.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Authority, see Tex. Local Government Code, § 211.009

§ 154.067 VARIANCES.

- (A) *Authority.* The Zoning Board of Adjustments may authorize to the owner of record a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Board shall prescribe only conditions that it deems necessary for, or desirable to, the public interest. In making the findings herein below required, the Board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work within the proposed use, and the probable effect such variance will have upon traffic conditions and upon the public health, safety, convenience, and welfare of the community.
- (B) *Conditions required for variance.*
- (1) No variance shall be granted without first having given public notice and having held a public hearing on the written variance request in accordance with this chapter and unless the Zoning Board of Adjustments finds:
 - (a) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land;
 - (b) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
 - (c) The granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property within the area; and
 - (d) The granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this chapter.
 - (2) Such findings of the Zoning Board of Adjustments, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Zoning Board of Adjustments meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety, and welfare may be secured and that substantial justice may be done.
- (C) *Findings of undue hardship.*
- (1) In order to grant a variance, the Zoning Board of Adjustments must make written findings that an undue hardship exists using the following criteria.
 - (a) Literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property.
 - (b) The situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.
 - (c) The relief sought will not injure the permitted use of adjacent conforming property.
 - (d) The granting of a variance will be in harmony with the spirit and purpose of these regulations.
 - (2) A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely upon economic gain or loss, nor shall it permit any person the privilege of developing a parcel of land not permitted by this chapter to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.
 - (3) The applicant bears the burden of proof in establishing the facts that may justify a variance.

- (D) *Special exceptions for nonconforming uses and structures.* Upon written request of the property owner, the Zoning Board of Adjustments may grant special exceptions to the provisions of division (B)(1)(c) above, limited to the following and in accordance with the following standards:
- (1) Expansion of a nonconforming use within an existing structure, provided that, in the case of a nonconforming residential use, such expansion does not increase the number of dwelling units to more than the number existing when the use first became nonconforming;
 - (2) Expansion of the gross floor area of a nonconforming structure, provided that such expansion does not decrease any existing setback;
 - (3) Change from one nonconforming use to another, reconstruction of a nonconforming structure that has been totally destroyed, or resumption of a nonconforming use previously abandoned, only upon finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land; and
 - (4) In granting special exceptions under division (B)(1)(c) above, the ZBA may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety, and general welfare including, but not limited to, conditions specifying the period during which the nonconforming use may continue to operate or exist before being conformed to the standards of this chapter.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.068 VARIANCES APPLICATION PROCEDURE.

- (A) *Application and fee.* An application for a variance by the Zoning Board of Adjustments shall be made in writing by the owner of record of said property using forms prescribed by the city and shall be accompanied by an application fee, a site plan, and such additional information as may be requested in writing in order to properly review the application. Such information may include, but is not limited to, plat plans, site building plans, photographs, topographic contour maps, and other similar documents. All drawings must be to scale.
- (B) *Review and report by the city.* The Mayor/City Secretary, Code Enforcement Official, or his or her designee shall visit the site where the proposed variance will apply and the surrounding area, and shall provide a written report of his or her findings to the Zoning Board of Adjustments. Prior to voting on a variance or other authorized land use matter, members of the ZBA should not confer with interested parties or meet with neighborhood opposition members and evaluate the situation outside the public hearing process. In the state the law is clear that members of a ZBA act in a quasi-judicial capacity. Consequently, the ex parte receipt of information or opinions is unfair and may deprive an applicant of due process.
- (C) *Notice and public hearings.* The Zoning Board of Adjustments shall hold a public hearing for consideration of the written variance request no later than 45 days after the date the application for action or an appeal is filed. Notice of the public hearing shall be provided to all property owners within 200 feet of the affected property at least ten days prior to the public hearing and also published in the official local newspaper at least ten days prior to the public hearing. Said written notice shall be sent using the last known address as listed on the most recently approved tax roll and depositing the notice, with first-class postage paid, in the U.S. mail.

- (D) *Action by the Zoning Board of Adjustments.* The Zoning Board of Adjustments shall not grant a variance unless it finds, based upon evidence, that each of the conditions in § 154.067 has been established. The Zoning Board of Adjustments may impose such conditions, limitations, and safeguards as it deems appropriate upon the granting of any variance. Violation of any such condition, limitation, or safeguard shall constitute a violation of this section.
- (E) *Finality of decisions; judicial review.* All decisions of the Zoning Board of Adjustments are final and binding. However, any person aggrieved by a decision of the Zoning Board of Adjustments may present a verified petition to a court of record which states that the decision of the Zoning Board of Adjustments is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition must be presented within ten days after the date the decision is filed in the City Secretary's office. Subject to the provisions of the Tex. Local Government Code, § 211.01, only a court of record may reverse, affirm, or modify a decision of the Zoning Board of Adjustments.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Review and report, see Tex. Local Government Code, Ch. 551

§ 154.069 PUBLIC HEARING.

Public hearing shall follow the Texas Open Meetings Act (TOMA), Tex. Government Code, Ch. 511 and procedures set forth in § 154.085.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.070 FAILURE TO APPEAR.

Failure of the applicant or representative to appear before the ZBA for more than one hearing without an approved delay by the Mayor/City Secretary or his or her designee shall constitute sufficient grounds for the ZBA to table or deny the application, unless the city is notified in writing by the applicant at least 72 hours prior to the hearing.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.071 APPEALS.

(A) The appellant must file with the Zoning Board of Adjustments, and the official from whom the appeal is taken, a written notice of appeal specifying the grounds for the appeal. The appeal must be filed within 60 days after the decision has been rendered. Upon receiving the notice, the official from whom the appeal is taken shall immediately transmit to the Zoning Board of Adjustments all papers constituting the record of action that is appealed. An appeal stays all proceedings in furtherance of the action that is appealed, unless the official from whom the appeal is taken certifies in writing to the Zoning Board of Adjustments facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining

order granted by the Zoning Board of Adjustments or a court of record on application, after notice to the official, if due cause is shown. The appellant party may appear at the appeal hearing in person or by agent or attorney. The Zoning Board of Adjustments shall decide the appeal within four weeks after the written request (notice of appeal) was received, after which time the written request shall be deemed automatically approved if no formal action is taken. The Zoning Board of Adjustments may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken, and may make the correct order, requirement, decision, or determination.

(B) A member or members of the Zoning Board of Adjustments may not bring an appeal on behalf of a property owner other than himself or herself to the Zoning Board of Adjustments. An appeal must be requested by the owner of the property being considered.

(Ord. 2011-27(f), passed 11-12-2015)

Statutory reference:

Appeals, see Tex. Local Government Code, §§ 211.010 and 211.011

PUBLIC HEARING PROCEDURES

§ 154.085 ESTABLISHED.

Public hearing procedures are established in an effort to expedite, accelerate, and increase efficiency of meetings at which the public appears, and in an attempt to avoid unnecessary confusion, length, and dissention at such meetings. Hearings are open to all residents/property owners in the city and no resident/property owner shall be denied the right to comment, however, time limits may be set and residents/property owners are required to speak at the podium stating name and address. Questions or comments must pertain to the agenda item(s) posted only. Any written correspondence received pertaining to posted public hearing shall be read during the time designated for comments from residents/property owners by the City Secretary or his or her designee. Notice of public hearings shall be posted in accordance with the Texas Open Meetings Act (TOMA), Tex. Government Code, Ch. 511. (Ord. 2011-27(f), passed 11-12-2015)

§ 154.086 JOINT PUBLIC HEARING - CITY COUNCIL AND COMMISSION.

Whenever the City Council and the Commission are required by the laws of the state to conduct public hearings in matters pertaining to planning, zoning, or subdividing property, and at other times when it is in the best interest of the city to do so, the City Council and the Commission are hereby authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings. (Ord. 2011-27(f), passed 11-12-2015)

ENFORCEMENT

§ 154.100 CODE ENFORCEMENT OFFICIAL/TCEQ REPRESENTATIVE.

CODE ENFORCEMENT OFFICIAL shall be defined as a person or persons authorized by the City Council to evaluate current city code violations and to work with the City Secretary.
(Ord. 2011-27(f), passed 11-12-2015)

§ 154.101 CODE ENFORCEMENT OFFICIAL'S DUTIES.

- (A) Review complaints of code violations which shall include:
- (1) Review of report taken by city or possible contact with person reporting violation;
 - (2) Performing inspection to verify that a violation exists on the property;
 - (3) Notifying property owner of violation after being verified either by notice of violation or first-class mail stating violation;
 - (4) Monitor property for compliance and, if property owner does not comply, notify city to send certified letter to last known address of the owner of record; and
 - (5) Submit report to the City Secretary monthly for review before the regularly scheduled City Council meeting.
- (B) Additional duties may include:
- (1) After permit application, the Code Enforcement Official or designee may do site plan evaluation for new construction, installation of decks, carports, driveways, fences, storage/ accessory buildings, swimming pools, placement of manufactured homes, or any other installation which requires a permit for proper adherence to current city code as well as review of permits for demolition or repair, determining dangerous structures/buildings, as well as issuance of certificate of occupancy;
 - (2) Posting of stop work orders (construction with no permit);
 - (3) Delivery of notice of violation to property owner;
 - (4) Review and monitor permits obtained for occasional sales, vendors, and signs; and
 - (5) Any other duties that may become necessary as determined by City Council.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.102 TCEQ REPRESENTATIVE.

Recognized by TCEQ (Texas Commission on Environmental Quality) as qualified to approve permit and site plan as well as inspection of installation of septic systems.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.103 ASSISTANCE BY OTHER DEPARTMENTS.

The City Secretary, Code Enforcement Official, or his or her designee may seek the assistance of the Fire Department and the Sheriff’s Office in order to effectively enforce the terms of §§ 154.100 through 154.103.

(Ord. 2011-27(f), passed 11-12-2015)

ZONING DISTRICTS

§ 154.115 ESTABLISHED.

(A) The city is hereby divided into the following zoning districts. The use, height, area regulations, and other standards as set out herein apply to each district. The districts established herein shall be known as follows.

<i>Abbreviated Designation</i>	<i>Zoning District Name</i>
CUP	Conditional Use Permit
HI	Heavy Industrial
LI	Light Industrial
LR	Local Retail
MB	Mixed Business
SF	Single-Family Residential
SF/MH	Single-Family/Manufactured Home
SFA	Single-Family Attached Residential
SFC	Single-Family Camping

(B) Refer to district in which property is located for use regulations.

(C) Certain terms and definitions used within this chapter can be found in § 154.008.

(D) Definitions specifically applicable to particular sections are contained within §§ 154.135 through 154.140 (fencing, walls, and screening requirements) and §§ 152.095 through 152.099 (exterior construction and design requirements).

(Ord. 2011-27(f), passed 11-12-2015; Amendment of 3-10-2016; Amendment of 4-14-2016)

§ 154.116 DISTRICTS BY ORIGINAL SECTION NAME.

(A) *Districts.*

- (1) *District I Single-Family Residential.* Manufactured homes allowed - limited camping.
- (2) *District II Single-Family Residential.* No manufactured homes - limited camping.
- (3) *District III Single-Family Residential.* Manufactured homes allowed - full time camping with restrictions (see § 154.124).

(B) *Original section name.*

- (1) *Districts I through III.*

<i>District I - SF/SFA/MH</i>	<i>District II - SF/SFA</i>	<i>District III-SF/MH/SFC</i>
Camelot 1	Charmaine 1	Camelot 2
Ivanhoe Estates 1	Charmaine 2	Tristan 1
Ivanhoe Estates 2	Charmaine 3	Tristan 3
Ivanhoe Estates 3	Charmaine 4	Tristan 4
Ivanhoe Estates 4	Charmaine 5	
Ivanhoe Ranchettes	Charmaine 6	
	Charmaine 7	
	Charmaine 7A	
	Charmaine 8	
	Galahad 6	
	Galahad 7	
	Galahad Estates 1	
	Ivanhoe 1	
	Ivanhoe 2	
	Ivanhoe 3	
	Ivanhoe 4	
	Ivanhoe 5	
	Tristan 2	

(2) *Districts IV and V - Mixed Business IV and Local Retail V Districts.*

- (a) Forty acre tract to be designated as commercial property. See map from the county appraisal district, page three.

- (b) Tract of land belonging to the store (description attached), page four.
- (c) One acre tract located on Hwy. 69/287, north side of Ivanhoe entrance.
- (d) Included in this section are:
 - 1. A copy of district map, page five; and
 - 2. A copy of section map, page six.
- (e) Copies of maps referred to above are available at the city office.

(C) District VI - Light and Heavy Industrial. Light industrial is industry that is usually less capital-intensive than heavy industry, and is more consumer-oriented than business-oriented (for example, most light industry products are produced for and users rather than as intermediates for use by other industries). Light industry facilities typically have less environmental impact than those associated with heavy industry, and zoning laws are more likely to permit light industry near residential areas. It is the production of small consumer goods. Some but not all example of light industry would be water company office, construction office, equipment yard with motor grader tractors, trailers, backhoe, track hoe, trucks, clay pit, earth extraction, storage of road material and the like.

(Ord. 2011-27(f), passed 11-12-2015; Amendment of 3-10-2016; Amendment of 4-14-2016)

§ 154.117 SINGLE-FAMILY/MANUFACTURED HOME RESIDENTIAL.

- (A) *General purpose, description, and permitted uses.*
 - (1) The SF/MH Single-Family/Manufactured Home Residential District I is intended to provide for development of primarily low-density detached, single-family residences or manufactured homes on lots of at least 6,600 square feet in size.
 - (2) Conditional uses must be approved utilizing procedures set forth in § 154.040.
- (B) *Height regulations.*
 - (1) *Main building(s).* Maximum two stories or 35 feet for the main building or house.
 - (2) *Accessory building(s).* Maximum one story or 18 feet in height for storage building or other accessory buildings, including a detached garage or accessory dwelling units. Materials used and location shall be determined acceptable after permit application, payment of established fee, and inspection by Code Enforcement Official or his or her designee. Under no circumstances shall a storage building be used for habitation. No intermodal containers are permitted anywhere within the city.
 - (3) *Other.* Refer to § 154.159 for additional height regulations.
- (C) *Area regulations.*
 - (1) *Size of lots.*
 - (a) Minimum lot area: 6,600 square feet;
 - (b) Minimum lot width: 60 feet; and
 - (c) Minimum lot depth: 110 feet.
 - (2) *Size of yards.*
 - (a) Minimum front yard: 25 feet;
 - (b) Minimum side yard: five feet, 20 feet from a street right-of-way for a corner lot; and
 - (c) Minimum rear yard: 25 feet for the main building.
 - (3) *Maximum lot coverage.* Thirty-five percent by main buildings and accessory buildings.

- (4) *Parking.*
 - (a) Single-family dwelling unit: a minimum of two parking spaces behind the front building line and on the same lot as the main structure; and
 - (b) Other: refer to Chapter 70.
- (5) *Minimum floor area per dwelling unit.* One thousand square feet for SF Residential and 800 square feet for MH Manufactured Homes.

(D) *Special requirements.*

- (1) *On-site dwellings.* Recreational vehicles, travel trailers, or motor homes may be used for on-site dwelling purposes for up to six months after obtaining building permit for construction of home. Refer to Chapter 51 for sewage disposal requirements.
- (2) *Open storage.* Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, and the like).
- (3) *Side-entry garages.* Single-family homes with side-entry garages, where lot frontage is only to one street (not a corner lot), shall have a minimum of 25 feet from the door face of the garage or carport to the side property line for maneuvering.
- (4) *Swimming pools.* Swimming pools shall be enclosed in accordance with requirements set forth in § 154.138.
- (5) *Nonresidential uses.* Site plan approval (see § 154.033) shall be required for any nonresidential use (such as a school, church, childcare center, private recreation facility, and the like) in the SF District. Any nonresidential land use that may be permitted in this District shall conform to the Retail District standards.
- (6) *Other regulations.* Refer to Chapter 152 and Title XI for additional regulations.
- (7) *MH Manufactured Home regulations.* Refer to §§ 152.130 through 152.134.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.118 SINGLE-FAMILY RESIDENTIAL.

(A) *General purpose, description, and permitted uses.*

- (1) The SF Single-Family Residential District is intended to provide for development of primarily low-density detached, single-family residences on lots of at least 6,600 square feet in size.
- (2) Conditional uses must be approved utilizing procedures set forth in § 154.040.
- (3) Manufactured homes shall not be placed within District II. Any manufactured home that was in place in District II at the time this chapter was put in place, if removed, shall be replaced with an International Residential Construction building code-approved home. See § 152.001(D).

(B) *Height regulations.*

- (1) *Main building(s).* Maximum two stories or 35 feet for the main building or house.
- (2) *Accessory building(s).* Maximum one story or 18 feet in height for storage building or other accessory buildings, including a detached garage. Materials used and location shall be determined acceptable after permit application, payment of established fee, and inspection by Code Enforcement Official or his or her designee. Under no circumstances shall a

storage building be used for habitation. No intermodal containers are permitted anywhere within the city.

(3) *Other*. Refer to § 154.159 for additional height regulations.

(C) *Area regulations*.

(1) *Size of lots*.

(a) Minimum lot area: 6,600 square feet;

(b) Minimum lot width: 60 feet; and

(c) Minimum lot depth: 110 feet.

(2) *Size of yards*.

(a) Minimum front yard: 25 feet;

(b) Minimum side yard: five feet, 20 feet from a street right-of-way for a corner lot; and

(c) Minimum rear yard: 25 feet for the main building.

(3) *Maximum lot coverage*. Thirty-five percent by main buildings and accessory buildings.

(4) *Parking*.

(a) Single-family dwelling unit: a minimum of two parking spaces behind the front building line and on the same lot as the main structure; and

(b) Other: see Chapter 70.

(5) *Minimum floor area per dwelling unit*. One thousand square feet for SF Residential.

(D) *Special requirements*.

(1) *On-site dwellings*. Recreational vehicles, travel trailers, or motor homes may be used for on-site dwelling purposes for up to six months after obtaining building permit for construction of home. The six month period shall commence at the start of home construction. Refer to Chapter 51 for sewage disposal requirements.

(2) *Open storage*. Open storage is prohibited (except for materials for the residents personal use or consumption such as firewood, garden materials, and the like).

(3) *Side-entry garages*. Single-family homes with side-entry garages, where lot frontage is only to one street (not a corner lot), shall have a minimum of 25 feet from the door face of the garage or carport to the side property line for maneuvering.

(4) *Swimming pools*. Swimming pools shall be enclosed in accordance with requirements set forth in § 154.138.

(5) *Nonresidential uses*. Site plan approval (§ 154.033) shall be required for any nonresidential use (such as a school, church, childcare center, private recreation facility, and the like) in the SF District. Any nonresidential land use that may be permitted in this District shall conform to the Retail District standards.

(6) *Other regulations*. Refer to § 152.130(C), no manufactured home allowed in District II. Refer to Chapter 152 and Title XI for additional regulations.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.119 SINGLE-FAMILY/MANUFACTURED HOME RESIDENTIAL/SINGLE-FAMILY CAMPING.

(A) *General purpose, description, and permitted uses*.

Ivanhoe, TX Code of Ordinances

- (1) The SF/MH/SFC Single-Family/Manufactured Home Residential/Single-Family Camping District III is intended to provide for development of primarily low-density detached, single-family residences or manufactured homes, or single-family camping exempt from the current 17-day limit for all other sections within the city limits, on lots of at least 6,600 square feet in size.
 - (2) Conditional uses must be approved utilizing procedures set forth in §§ 154.040 and 154.124.
- (B) *Height regulations.*
- (1) *Main building(s).* Maximum two stories or 35 feet for the main building or house.
 - (2) *Accessory building(s).* Maximum one story or 18 feet in height for storage building or other accessory buildings, including a detached garage or accessory dwelling units. Materials used and location shall be determined acceptable after permit application, payment of established fee, and inspection by Code Enforcement Official or his or her designee. Under no circumstances shall a storage building be used for habitation. No intermodal containers are permitted anywhere within the city.
 - (3) *Other.* Refer to § 154.159 for additional height regulations.
- (C) *Area regulations.*
- (1) *Size of lots.*
 - (a) Minimum lot area: 6,600 square feet;
 - (b) Minimum lot width: 60 feet; and
 - (c) Minimum lot depth: 110 feet.
 - (2) *Size of yards.*
 - (a) Minimum front yard: 25 feet;
 - (b) Minimum side yard: five feet, 20 feet from a street right-of-way for a corner lot; and
 - (c) Minimum rear yard: 25 feet for the main building.
 - (3) *Maximum lot coverage.* Thirty-five percent by main buildings and accessory buildings.
 - (4) *Parking.*
 - (a) Single-family dwelling unit: a minimum of two parking spaces behind the front building line and on the same lot as the main structure; and
 - (b) Other: refer to Chapter 70.
 - (5) *Minimum floor area per dwelling unit.* One thousand square feet for SF Residential and 800 square feet for MH Manufactured Homes.
- (D) *Special requirements.*
- (1) *On-site dwellings.* Recreational vehicles, travel trailers, or motor homes may be used for on-site dwelling purposes for up to six months after obtaining building permit for construction of home. Refer to Chapter 51 for sewage disposal requirements.
 - (2) *Open storage.* Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, and the like).
 - (3) *Side-entry garages.* Single-family homes with side-entry garages, where lot frontage is only to one street (not a corner lot), shall have a minimum of 25 feet from the door face of the garage or carport to the side property line for maneuvering.
 - (4) *Swimming pools.* Swimming pools shall be enclosed in accordance with requirements set forth in § 154.138.

- (5) *Nonresidential uses.* Site plan approval (§ 154.033) shall be required for any nonresidential use (such as a school, church, childcare center, private recreation facility, and the like) in the SF District. Any nonresidential land use that may be permitted in this District shall conform to the Retail District standards.
- (6) *Temporary facilities.* Recreational vehicles, travel trailers, or motor homes may be used for on-site dwelling for camping purposes only. Refer to § 154.124 (Camping District III) and Chapter 51 for sewage disposal requirements.
- (7) *Other regulations.* Refer to §§ 152.130 through 152.133 (placement, permit, age, anchoring, skirting, and existing mobile or manufactures home). Refer to Chapter 152 and Title XI for additional regulations.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.120 SINGLE-FAMILY ATTACHED RESIDENTIAL.

- (A) *General purpose, description, and permitted uses.*
 - (1) The SFA Single-Family Attached Residential District is intended to promote stable, quality, attached-occupancy residential development on individual lots at slightly increased densities. Individual ownership of each lot is encouraged. This District may be included within certain areas of neighborhoods or, when in accordance with the intent of the Comprehensive Plan, may provide a buffer or transition district between lower density residential areas and multiple-family or nonresidential areas or major thoroughfares.
 - (2) Conditional uses must be approved utilizing procedures set forth in § 154.040.
- (B) *Height regulations.*
 - (1) *Main building(s).* Maximum two stories or 35 feet for the main building or house.
 - (2) *Accessory building(s).* Maximum one story or 18 feet in height for storage building or other accessory buildings, including a detached garage or accessory building units. Materials used and location shall be determined acceptable after permit application, payment of established fee, and inspection by Code Enforcement Official or his or her designee. Under no circumstances shall a storage building be used for habitation. No intermodal containers are permitted anywhere within the city.
 - (3) *Other.* Refer to § 154.159 for additional height regulations.
- (C) *Area regulations.*
 - (1) *Size of lots.*
 - (a) Minimum lot area: 3,000 square feet;
 - (b) Minimum lot width: 30 feet; and
 - (c) Minimum lot depth: 100 feet.
 - (2) *Size of yards.*
 - (a) Minimum front yard: 25 feet;
 - (b) Minimum side yard:
 1. Single-family attached dwellings are not required to have a side yard, with the exception of a minimum 15-foot side yard adjacent to a street. The ends of any two adjacent building complexes or rows of buildings shall be at least 15 feet

apart. The required side yards shall be designated upon a plat approved by the City Council; and

2. A complex of attached single-family dwellings shall have a minimum length of three dwelling units, and shall not exceed 200 feet in length or the width of six attached units, whichever is less.

(c) Minimum rear yard: 25 feet for the main building.

(3) *Maximum lot coverage.* Seventy percent by main buildings and accessory buildings.

(4) *Parking regulations.*

(a) A minimum of two parking spaces for each dwelling unit located behind the dwelling unit and accessed only from the rear via an alley or approved fire lane, and located on the same lot as each dwelling unit;

(b) Designated visitor parking spaces shall be provided in off-street common areas; and

(c) Other: refer to Chapter 70.

(5) *Minimum floor area per dwelling unit.* One thousand square feet for SFA Residential.

(D) *Special requirements.*

(1) *Separate utilities.* All utilities shall be provided separately to each lot within an SFA District so that each unit is individually metered.

(2) *Private yard.* Each SFA lot shall contain a private yard of not less than 400 square feet; such yard area(s) may be either a backyard or side yard. Calculation for a private yard area may include:

(a) A patio cover, gazebo, or other similar non-enclosed structure that does not cover more than 25% of the yard; and/or

(b) A swimming pool, swing set, play fort, or other leisure amenity.

(3) *Useable open space requirement.* All single-family attached developments shall provide usable open space at the same ratio and conforming to the same criteria as specified below. Except as provided herein, any SFA subdivision shall provide useable open space which equals or exceeds 20% of the gross platted area, excluding rights-of-way for collector and larger sized streets. Useable open space shall not be required for an SFA development if it contains 20 or fewer lots.

(4) *Maintenance requirements for common areas.* A property owners association is required for continued maintenance of common land and/or facilities.

(5) *Garage space required.* The elimination of a garage space by enclosing the garage with a stationary building wall shall be prohibited.

(6) *Open storage.* Open storage is prohibited (except for materials for the resident's personal use or consumption such as firewood, garden materials, and the like).

(7) *Side-entry garages.* Single-family homes with side-entry garages, where lot frontage is only to one street (not a corner lot), shall have a minimum of 25 feet from the door face of the garage or carport to the side property line for maneuvering.

(8) *Swimming pools.* Swimming pools shall be enclosed in accordance with requirements set forth in § 154.138.

(9) *Nonresidential uses.* Site plan approval (§ 154.033) shall be required for any nonresidential use (including a school, church, childcare center, or private recreation facility) in the SFA

District. Any nonresidential land use that may be permitted in this District shall conform to the Retail District standards.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.121 MIXED BUSINESS IV.

(A) *General purpose, description, and permitted uses.*

- (1) The MB Mixed Business District is established to create a district for low intensity office, commercial, professional uses and retail sales. The District can be used as a transition district between more intense uses and residential uses. Permitted uses should be compatible with adjacent residential areas by limiting building heights, and by utilizing buffering and landscaping requirements. Buildings in this District should be compatible with, and similar in scale to, residential uses and adjacent property. Residential uses and bed-and-breakfasts shall be permitted within Mixed Business IV.
- (2) The following uses shall be allowed in a mixed business district; provided, however, that these uses may be restricted by the City Council in the ordinance creating the district. The City Council shall have full legislative discretion in determining whether these uses are appropriate with adjacent land uses, and shall have discretion to impose conditions as may be necessary to protect adjacent land uses and ensure compatibility:
 - (a) Office Profession-OP;
 - (b) Retail/Dining-GR; and
 - (c) Light and Heavy Industrial-IND.
- (3) Conditional uses must be approved utilizing procedures set forth in § 154.040.
- (4) Uses prohibited. The following uses shall be prohibited:
 - (a) Any sexually oriented businesses, including adult arcades, adult bookstores, adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios and sexual encounter centers.
 - (b) Payday lenders, payday advance, salary loan, payroll loan, small dollar loan, short term, or cash advance loan and title loan.

(B) *Height regulations.*

- (1) *Main building(s).* Maximum two stories or 35 feet.
- (2) *Accessory building, nonresidential.* Maximum one story or 18 feet in height for storage building and shall be subordinate to the main building, which does not exceed the height of the main building, does not exceed 50% of the floor area of the main building, and is used for purposes accessory and incidental to the main use. Materials used and location shall be determined acceptable after permit application, payment of established fee, and inspection by Code Enforcement Official or his or her designee. Building shall not be used for habitation. No intermodal containers are permitted anywhere within the city.
- (3) *Other.* Refer to § 154.159 for additional height regulations.

(C) *Area regulations.*

- (1) *Size of lots.*
 - (a) Minimum lot size: 12,000 square feet;
 - (b) Minimum lot width: 80 feet; and

- (c) Minimum lot depth: 150 feet.
- (2) *Size of yards.*
 - (a) Minimum front yard: 25 feet. See §§ [154.155](#) through [154.161](#) for any additional setback requirements;
 - (b) Minimum side yard: 15 feet, 25 feet adjacent to a public street or residential lot;
 - (c) Interior side yards: when retail uses are platted adjacent to other retail uses and are integrated into an overall shopping center site creating lease spaces abutting one another, no side yard is required;
 - (d) Minimum rear yard: 25 feet; and
 - (e) Adjacent to a single-family district: any neighborhood service use that is over one story in height and that is located adjacent to (and not across a right-of-way from) any single-family zoning district shall be setback from the applicable property line by 60 feet.
 - (f) Building setbacks may be modified by City Council on the Site Plan, provided that public safety objectives are preserved.
- (3) *Maximum lot coverage.* Sixty percent total, including main buildings and accessory buildings.
- (4) *Building size for nonresidential structures.* The building footprint area shall not exceed 50,000 square feet in size.
- (5) *Parking requirements.* See Chapter 70.
- (6) *Landscaping requirements.* See § 154.139.
- (7) *Design Elements.*
 - (a) *Facade.* Materials used on the exterior of the building shall conform to those acceptable in the International Building Code (IBC).
 - (b) *Sidewalk.* Sidewalks shall be installed in accordance with state or federal statutes.
 - (c) *Lighting.* Light fixtures located in parking areas must not exceed 15 feet in height, and may not be directed or placed so that the illumination circle falls outside the district boundary; provided, however, that fixtures for outdoor sporting events may not exceed 30 feet in height.
 - (d) *Signs.* Shall adhere to Chapter 151.
- (8) *Loading zones and storage.* Loading zones shall be placed on the property as required by the City Secretary, code enforcement official or their designee. No outdoor storage is allowed, unless approved by City Council on the site plan, and where, due to the nature of the items being stored, it is necessary to keep them outside.
- (9) *Landscaping requirements;*
 - (a) Open space must constitute 40% of the gross area covered by the site plan.
 - (b) Parking lots shall be landscaped with an area equal to 15% of the total size of the parking lot, which must be landscaped and permeable, exclusive of perimeter plantings.
 - (c) Landscaping requirements may be waived or modified by the City Council at the site plan stage if a finding is made that the site plan provides sufficient permeable surfaces and adequately addressed drainage of impermeable surfaces.
 - (d) Fencing, walls, screening requirements shall adhere to §§ [154.135](#) through [154.140](#).

(D) *Special district requirements.*

(1) *Site design review.*

(a) *Site Plan.* A site plan shall be required for all new construction, exterior remodeling, or additions to any structure. No building permit shall be issued for a development subject to site plan review until that site plan has been approved in accordance with this section. The property owner or designated representative may initiate site plan review by filing an application with the Mayor, City Secretary or his or her designee and submitting the required permit fee and five copies of the site plan and related documents.

(b) *Contents of application.* Applications shall contain drawings to scale to indicate:

1. The location of existing and anticipated new structures on the subject property;
2. Landscaping and fencing, setback areas, uses of landscaping and walls or fences for screening purposes, and landscaping of parking areas as applicable;
3. The design or vehicular ingress and egress to minimize interference with traffic flow on abutting streets;
4. The proposed uses and height of all structures;
5. The location, heights and types of all signs including lighting; and
6. The facade elevations of each building, including descriptions or materials and colors for finishes.

(c) *Standards.* The site plan shall conform to all district regulations, and all special regulations applicable to the particular use.

(d) *Decision on site plan and appeal.* The City Council shall designate the official responsible to review the application. The official so designated may approve, approve with conditions, or deny the site plan. Appeals from denial of administrative site plan shall be to the Zoning Board of Adjustment, and shall be made within 60 days.

(2) *On-site dwellings.* Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling purposes.

(3) *Open storage.* Open storage is prohibited.

(4) *Temporary facilities.* There shall be no permanent use of temporary facilities or buildings.

(5) *Outside display.* Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins, shall be limited to the following.

(a) Outside display areas shall not be placed or located more than 30 feet from the main building.

(b) Outside display areas shall not occupy any of the parking spaces that are required by this chapter for the primary use(s) of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.

(c) Outside display areas shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site in any way.

(d) Outside display areas shall not extend into a public right-of-way or onto adjacent property.

(e) Outside display items shall be displayed in a neat, orderly manner, and the display area shall be maintained a clean, litter-free manner.

(6) *Other regulations.* Refer to Chapter 152 and Titles V, IX, and XI for additional regulations. (Ord. 2011-27(f), passed 11-12-2015; Amendment of 4-14-2016)

§ 154.122 LOCAL RETAIL V.

(A) *General purpose, description, and permitted uses.*

- (1) The LR Local Retail District is established to provide areas for low intensity, office, dining and specialized retail sales that are intended to service local neighborhoods and citizens and visitors of the city. Residential and bed-and-breakfast uses shall be permitted within Local Retail Districts.
- (2) Conditional uses must be approved utilizing procedures set forth in § 154.040.
- (3) *Uses prohibited.* The following uses shall be prohibited:
 - (a) Any sexually oriented businesses, including adult arcades, adult bookstores, adult video stores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, escort agencies, nude model studios and sexual encounter centers.
 - (b) Payday lenders, payday advance, salary loan, payroll loan, small dollar loan, short term, or cash advance loan and title loan.

(B) *Height regulations.*

- (1) *Main building(s).* Maximum two stories or 35 feet.
- (2) *Accessory building, nonresidential.* Maximum one story or 18 feet in height for storage building and shall be subordinate to the main building, which does not exceed the height of the main building, and does not exceed 50% of the floor area of the main building, and is used for purposes accessory and incidental to the main use. Materials used and location shall be determined acceptable after permit application, payment of established fee, and inspection by Code Enforcement Official or his or her designee. Building shall not be used for habitation. No intermodal containers are permitted anywhere within the city.
- (3) *Other.* Refer to § 154.159 for additional height regulations.

(C) *Area regulations.*

- (1) *Size of lot.*
 - (a) Minimum lot area: 8,000 square feet;
 - (b) Minimum lot width: 80 feet; and
 - (c) Minimum lot depth: 100 feet.
- (2) *Size of yards.*
 - (a) Minimum front yard: twenty-five feet. See §§ 154.155 through 154.161 for any additional setback requirements;
 - (b) Minimum side yard: 15 feet, 25 feet adjacent to a public street or residential lot;
 - (c) Minimum rear yard: 25 feet; and
 - (d) Adjacent to a single-family district: any neighborhood service use that is over one story in height and that is located adjacent to (and not across a right-of-way from) any single-family zoning district shall be setback from the applicable property line by 60 feet.
- (3) *Maximum lot coverage.* Sixty percent total, including main buildings and accessory buildings.

- (4) *Maximum building size.* The maximum building footprint area shall not exceed 50,000 square feet.
 - (5) *Parking regulations.*
 - (a) Refer to Chapter 70; and
 - (b) Materials for parking for nonresidential uses: parking areas may be constructed with an all-weather surface such as gravel. Driveway approaches and other maneuvering or access points to roadway rights-of-way shall be constructed with a gravel surface. Such parking areas shall meet all other parking-related requirements contained within Chapter 70.
 - (6) *Fencing, walls, screening requirements.* Refer to §§ 154.135 through 154.140.
- (D) *Special requirements.*
- (1) *Building facade plan.* Building facade (elevation) plans shall be submitted for Commission review and approval by the City Council along with the site plan. Facade plans shall clearly show how the building(s) will look, especially as viewed from the major thoroughfare upon which the property faces or sides, and will portray a reasonably accurate depiction of the anticipated materials and colors to be used. The Mayor/City Secretary or his or her designee may, as deemed appropriate, require submission of additional information and materials, including actual samples of materials to be used during the site plan review process.
 - (2) *Outside display.* Outside display of merchandise and seasonal items, such as Christmas trees and pumpkins, shall be limited to the following.
 - (a) Outside display areas shall not be placed or located more than 30 feet from the main building.
 - (b) Outside display areas shall not occupy any of the parking spaces that are required by this chapter for the primary use(s) of the property, except on a temporary basis only, which is a maximum of 30 days per display and a maximum of two displays per calendar year.
 - (c) Outside display areas shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site in any way.
 - (d) Outside display areas shall not extend into a public right-of-way or onto adjacent property.
 - (e) Outside display items shall be displayed in a neat, orderly manner, and the display area shall be maintained a clean, litter-free manner.
 - (3) *On-site dwellings.* Recreational vehicles, travel trailers, or motor homes may not be used for on-site dwelling purposes.
 - (4) *Open storage.* Open storage is prohibited.
 - (5) *Temporary facilities.* There shall be no permanent use of temporary facilities or buildings.
 - (6) *Other regulations.* Refer to Chapter 152 and Titles V, IX, and XI.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.123 CAMPING IN ZONING DISTRICTS I AND II.

- (A) *Construction of home.* Recreational vehicles, travel trailers, or motor homes may be used for on-site dwelling purposes for up to six months after obtaining a building permit for construction of a home. Refer to Chapter 51 for sewage disposal requirements.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.124 CAMPING IN ZONING DISTRICT III; CAMELOT 2, TRISTAN 1, 3, AND 4.

- (A) *Purpose.* The purpose of this section is to re-establish camping in above subdivisions where the restrictions never expire.
- (B) **Regulations.**
- (1) All lots (except those listed in division (C) below) shall be known and described as lots for single-family conventional built residential homes and/or manufactured homes, and/or single-family camping purposes only.
 - (2) Said lots shall not be used for business or commercial purposes.
 - (3) The following may be used for camping purposes:
 - (a) Travel trailers;
 - (b) Motor homes;
 - (c) Tents; and
 - (d) No school buses converted to recreational vehicles are permitted, as well as pick-up truck type campers are not permitted to be used as camping units separate and apart from the associated pick-up truck.
 - (4) Storage buildings built on site or pre-fabricated must be of an attractive design and appearance. A permit and payment of appropriate fee as well as a site plan is required when application is submitted to the city office. Under no circumstances shall any storage building be used for habitation.
 - (5) No travel trailer, motor home, or other movable structure of any kind (with the exception of manufactured homes which will follow permit process established in Ord. 2011-027(a) and any revisions thereafter) shall be erected, placed, or maintained on any lot, nor brought into the subdivision, until a city sticker of approval has been applied for and approved by the city's Code Enforcement Official or his or her designee. There will be a fee established by the city and renewable yearly. The unit must be of professional construction and in good repair and of an attractive design and appearance. At no time shall a travel trailer, motor home be occupied as a full-time residence or shall more than one travel trailer, motor home, or other movable structure be placed on a lot.
 - (a) All lots upon which a travel trailer, motor home, park model, or other movable structure is placed shall at all times maintain premises in a clean, safe, and sanitary condition. In the event of default on the part of the owner or occupant of any lot in observing the requirements set forth in §§ 90.15 through 90.18 of this code of ordinances (Ord. 2011-027)
 - (a) and any revisions thereafter), the Code Enforcement Official or his or her designee shall issue a notice of violation or give written notice sent by certified or first-class mail to last known address of the property owner of record to comply.
 - (b) If a travel trailer, motor home, or other movable structure is placed on a lot without first obtaining a sticker of approval from the city, the Code Enforcement Official or his or her designee shall issue a notice of violation or give written notice by first-class mail to

last known address of the owner of record to remove the unit from the property until the application for sticker of approval has been obtained from the city.

- (6) Tents shall be of professional construction and in good repair, and of attractive design and appearance. Tents can be used for temporary camping only and cannot be left set up on the lot unattended for more than 24 hours at any one time. If permanent restroom facilities are not available, self-contained portable units shall be used for sewage disposal, but must be emptied in a designated dump station or in accordance with (E) Sewage Disposal, below. See Chapter 51.
 - (7) Fire must be contained in a fire ring or pit away from overhanging trees and bushes. At no time is a camp fire to be left unattended and fire shall be extinguished completely before leaving the area. If a burn ban is in effect, no campfires will be allowed.
 - (8) All current city zoning ordinances shall apply.
- (C) ***Exempt lots.***
- (1) The designated single-family residential, conventional built homes (no manufactured home, travel trailer, motor home) are Lake Tristan Section 4, Block 149, Lots 1 through 25.
 - (2) All lots referred to in division (C)(1) above are to be used for building single-family residential conventional built homes. Recreational vehicles, travel trailers and motor homes may be used for on-site dwelling purposes for up to six months after obtaining a building permit for construction.
- (D) ***Sticker of approval.*** Sticker of approval shall be issued by the city for any travel trailer or motor home used within the above mentioned sections of the city for camping, or as an on-site dwelling when construction of a home is planned. Sticker must be displayed in a location on the recreational vehicle so that it is visible from the street. Application for the sticker of approval shall be applied for at the city office and payment of established fee is required at that time. Sticker is renewable yearly.
- (E) ***Sewage disposal.***
- (1) All lots hereunder are subject to all of the terms and conditions of TCEQ (Texas Commission on Environmental Quality).
 - (2) No outside toilet or privy shall be erected or maintained on any lot hereunder, nor shall any sewage be disposed of upon, in, or under any lot hereunder, except into a septic system installed and operated pursuant to the TCEQ standards for private sewage facilities and local standards.
 - (3) All plumbing, lateral lines, and holding tanks installed for the disposal of sewage on any lot hereunder shall conform with the requirements of the state's Health Department and the city's authorized agent for TCEQ (if applicable).
 - (4) Such septic system shall be required before any permanent or semi-permanent travel trailer, motor home, park model, or other structure installed on any lot hereunder and shall be installed before being placed on property. A holding tank that meets the requirements of the TCEQ and has a contract for pumping it out may be used if a copy of the pumping contract is on file at the city office. The pumping contractor must notify the city immediately if the contract is no longer valid and in force.
 - (5) Self-contained sanitation systems may be used by temporary campers, travel trailers, motor homes, or other movable structure, provided each meets the state's environmental and pollution regulations and is constructed to be gas- and odor-tight. All self-contained

sanitation systems (permanently installed in a travel trailer or motor home with holding tanks, or self-contained portable units) must be evacuated when needed and maintained in a sanitary condition without odor. Self-contained systems shall be emptied in a designated dump station only.

- (6) The dumping, emptying, or evacuation of sewage or wastewater onto the ground or into any lake, ditch, or drainage facility within the city is strictly prohibited. In addition, such action is a violation of the Tex. Water Code, Ch. 26 and of the Texas Water Quality Board Order No. 77-0714-1 and is subject to civil and criminal penalties. The city shall vigorously assist in prosecution of any person or persons engaged in such action.
- (7) At such time as an organized sewage disposal system for the collection, treatment, and disposal of sewage becomes available, sewage disposal will be by means of said system only and no permanent or semi-permanent facility shall be erected, placed, or maintained on any lot hereunder.
- (8) Within 90 days of being notified of the availability of an organized sewage disposal system, all existing permanent and semi-permanent facilities must be connected to said system.

(Ord. 2011-27(f), passed 11-12-2015; Ord. 2018-4, passed 5-10-2018)

DEVELOPMENT STANDARDS

§ 154.135 PURPOSE.

To encourage the most appropriate use of land while conserving and protecting the privacy and value of adjacent permitted uses, regulations are prescribed for the location and type of various screening devices to be used when required in the various zoning districts, or in this subchapter, in accordance with the following standards.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.136 FENCES IN RESIDENTIAL AREAS.

- (A) Any fence or wall located to the rear of the minimum required front yard line shall not exceed eight feet in height.
- (B) Any fence or wall located in the front yard of any single-family residential lot that is adjacent to a public street shall be no higher than five feet. Determination on placement of front yard fencing will be made by the Code Enforcement Official or his or her designee after all utilities have been located and clearly marked. Materials used for front yard fencing will be determined acceptable by the Code Enforcement Official or his or her designee at the time of permit application and approval. Examples of unacceptable fencing are, but not limited to, plywood, railroad ties, and corrugated metal sheets.
- (C) Fences that are constructed on lakefront property shall be no more than four feet in height from the lake edge and shall continue at this height for a distance of ten feet, and then can gradually increase in height (no more than one foot per 15 feet of length) until they are 50 feet from the

lake. A permit must be applied for at City Hall and approved by the Code Enforcement Official or his or her designee, as well as all utility lines located by property owner (call Texas One Call #811) before fence construction can be started.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.137 BARBED WIRE, ELECTRICAL, AND CHAIN LINK FENCING.

Barbed wire or electrical fencing that is visible from a public right-of-way is prohibited as perimeter fencing except for containment of farm animals on parcels of one or more acres. There must be a sign posted warning about an electric fence. Chain link fencing, refer to § 154.136.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.138 SWIMMING POOL FENCES.

- (A) **Enclosure required.** Every outdoor swimming pool constructed or installed after the effective date of this chapter shall be completely enclosed by a fence or a wall, or a combination thereof, which is not less than four feet in height. The fence and/or wall shall be so constructed as not to have openings, holes, or gaps larger than four inches in any dimension except for doors and gates. If a picket fence is erected or maintained, the horizontal spacing between pickets shall not exceed four inches. The walls of a dwelling, house, or accessory building may be used as part of such enclosures.
- (B) **Gates.** All gates and doors opening through an enclosure required pursuant to division (A) above shall be equipped with a self-closing device for keeping the gate or door securely closed at all times when not in actual use, provided that a door of indwelling our accessory building which forms a part of the enclosure need not be so equipped.
- (C) **Applicability.** No person in possession of land within the city, whether as owner, purchaser, lessee, or tenant, upon which a swimming pool is constructed or installed shall fail to provide and maintain a secure enclosure around such swimming pool.
- (D) **Modifications.** Persons owning pools may make application to the City Council which may authorize modifications and variances in individual cases upon a showing of good cause with respect to the height, nature, or location of the fence, wall, gate, or latch, or the necessity thereof; provided the minimum level of protection and security intended by this section is not reduced thereby. The City Council may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the fence, gate, and latch required.
- (E) **Definition.** The term **SWIMMING POOL**, as used herein, shall mean a body of water in an artificial or semi-artificial receptacle, structure, or container located outdoors, either above ground or below ground, used or intended to be used for public, semi-public, or private swimming, and shall include swimming pools used or intended to be used solely by the owner or others without payment of any fee.

(Ord. 2011-27(f), passed 11-12-2015) Penalty, see § 154.999

§ 154.139 SIGHT DISTANCE, VISIBILITY, AND LANDSCAPING.

Visual clearance shall be provided in all zoning districts so that no fence, wall, architectural screen, earth mounding, or landscaping 30 inches or higher above the street center line obstructs the vision of a motor vehicle driver approaching any street, alley, or driveway intersection as follows.

- (A) At a street intersection, clear vision must be maintained for a minimum of 25 feet across any lot measured from the corner of the property line in both directions.
- (B) At an intersection with an alley, this clearance must be maintained for ten feet.
- (C) Shrubs and hedges that are typically less than 30 inches in height at maturity, as measured from the centerline of the street, may be located in the visual clearance areas of all districts.
- (D) A limited number of single-trunk trees having a clear trunk (branching) height of at least eight feet may be located within sight visibility areas, provided that they are spaced and positioned such that they will not produce a visibility inhibiting, “picket-fence” effect when they attain mature size.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.140 OTHER TYPES OF FENCING.

Special purpose fencing, such as fencing around tennis courts, is permitted.

(Ord. 2011-27(f), passed 11-12-2015)

ADDITIONAL REGULATIONS

§ 154.155 MEASURING SETBACKS.

All setback measurements shall be made from surveyor’s corner markers.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.156 CONFIGURATION OF LOTS.

Wherever possible, flag lots (lots with minimal or panhandle-type frontage) shall be avoided. Similarly, through (double-frontage) lots shall also be avoided wherever possible, particularly within residential zoning districts.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.157 FRONT YARD STANDARDS AND MEASUREMENTS.

- (A) On all corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless approved specifically otherwise on a final plat. Where single-family

lots have double frontage, extending from one street to another, or are on a corner, a required front yard shall be provided on both streets unless a side or rear yard building line has been established along one frontage on the plat, in which event, only one required front yard need be observed. The side and rear yards, in the case of single-family uses, shall be identified and the front of the structure shall not face the side or rear yard.

- (B) Where the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage.
- (C) The front yard shall be measured from the property line to the front face of the building, to the nearest supporting member of a covered porch or terrace, or to any attached accessory building. Eaves and roof extensions or a porch without posts or columns may project into the required front yard for a distance not to exceed four feet; and subsurface structures, platforms, or slabs may not project into the front yard to a height greater than 30 inches above the average grade of the yard.
- (D) Minimum lot widths for lots with predominate frontage on the curved radius of a street, including those located on a cul-de-sac or “eyebrow” portion of a street, shall be measured as the linear distance of the curved front building line and shall be shown on the subdivision plat. Lot widths for all lots shall be as set forth in the respective zoning district for each lot.
- (E) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.158 SIDE YARD STANDARDS AND MEASUREMENTS.

- (A) On a corner lot used for single-family dwellings, both street exposures shall be treated as front yards on all lots platted after the initial date of the adoption of the city’s Zoning Ordinance, October 9, 2010, except that where one street exposure is designated as a side yard for both adjacent lots or where the two lots are separated by an alley, street right-of-way, creek or floodplain area, or other similar phenomenon. In such case, a building line may be designated by the Mayor/City Secretary or his or her designee, with a minimum side yard of 15 feet or more, as determined by the applicable zoning district standards. On lots which were official lots of record prior to the effective date of this chapter, the minimum side yard adjacent to a side street shall comply with the minimum required side yard for the respective district.
- (B) Every part of a required side yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, and other architectural features not to exceed 12 inches into the required side yard, and roof eaves projecting not to exceed 36 inches into the required side yard. Air conditioning compressors and similar equipment are permitted in the side yard.
- (C) Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front, side, or rear yard shall be measured from the future right-of-way line.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.159 SPECIAL HEIGHT REGULATIONS.

- (A) **Limitations.** In the districts where the height of buildings is restricted to two stories, cooling towers may extend for an additional height not to exceed 50 feet above the average grade line of the building. Water stand pipes and tanks, church steeples, domes and spires, school buildings, windmills, barns, and institutional buildings may be erected to exceed the height limit, as specified in the particular zoning district; provided that one additional foot shall be added to the width and depth of front, side, and rear yards for each foot that such structures exceed the district height limit.
- (B) **Calculation of height.**
- (1) For the purposes of calculating the overall height of a structure, slope shall be calculated from the highest point of the building at natural grade to the lowest point of the building at natural grade, or the natural grade of an adjoining road, along a line that is, as close as possible, perpendicular to existing contours.
 - (2) The height shall be measured from the highest parapet or roof ridge to natural grade or finish grade at the lowest point adjacent to the building exterior, whichever yields the greatest height.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.160 MINIMUM FLOORING AREA PER UNIT AREA.

Minimum dwelling unit areas specified in this chapter shall be computed exclusive of breezeways, garages, open porches, carports, and accessory buildings. For Single-Family Residential (SF) a minimum of 1,000 square feet and for Manufactured Homes (MH) a minimum of 800 square feet.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.161 OPEN STORAGE AREAS.

Open storage of materials, commodities, or equipment, where allowed in the specific zoning district, shall be located behind the front building line and observe all setback requirements for the main structure or building. This standard does not apply to outside display, as defined in § 154.121(D)(5) and 154.122(D)(2). There are screening requirements in §§ 154.135 through 154.140 and special requirements for outside display within zoning districts.

(Ord. 2011-27(f), passed 11-12-2015)

§ 154.999 PENALTY.

- (A) ***Criminal prosecution.*** Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$100 per violation per day and/or imprisonment for a period of time not to exceed ten days. The authorized enforcement agency may recover all attorneys' fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.
- (B) ***Remedies not exclusive.*** The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

CHAPTER 155: COMPREHENSIVE PLAN

Section

155.01 Adopted by reference

§ 155.01 ADOPTED BY REFERENCE.

The Comprehensive Plan, a copy of which is on file in the office of the City Secretary, is adopted by reference and incorporated as part of this code of ordinances as if set out at length herein.

(Ord. 2012-5, passed 4-14-2012)