

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS, REPEALING AND REPLACING THE CITY OF LIVE OAK CODE OF ORDINANCES APPENDIX A – ZONING REGULATIONS, APPENDIX B – SIGN REGULATIONS, CHAPTER 24 – VEGETATION, AND CHAPTER 17- PLANNING; AS SAME MAY HAVE HERTOFORE BEEN AMENDED, MODIFIED OR SUPPLEMENTED; ADOPTING NEW REGULATIONS AND REQUIREMENTS; PROVIDING FOR A PENALTY CLAUSE; PROVIDNG AND EFFECTIVE DATE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; AND PROVIDING FOR SEVERABLITY.

WHEREAS, the City of Live Oak (“City”) is a Texas Home Rule Municipality operating under the laws of the State of Texas; and

WHEREAS, the City is empowered by Chapter 211 of the Texas Local Government Code to establish zoning regulations and other associated code provisions related to signs, vegetation, and planning, within the incorporated limits of the City; and

WHEREAS, the City has given appropriate and reasonable consideration to the zoning regulation and other associated code provision amendments and found them most appropriate for the City; and

WHEREAS, the City Council of the City of Live Oak finds that repealing and replacing the zoning regulations as depicted in this Ordinance are compliant with the requisites of the state law, including Texas Local Government Code as well making the necessary other associated Code provision amendments on signs, vegetation, and planning; and

WHEREAS, after notice and joint public hearing on July 21, 2022, the Planning and Zoning Commission has considered and recommended approval of the replacement of the zoning regulations and other associated code provisions; and

WHEREAS, after consideration of public input received at the joint public hearing, the information provided by staff, consideration of the Comprehensive Land Plan and all other information presented, the recommendation of the Planning and Zoning Commission, the City Council finds it is in the public interest to approve the replacement of the zoning regulations and other associated code provisions; and

WHEREAS, the City Council finds that the repeal and replacement of the zoning regulations and other associated code provisions is necessary for the orderly development of this community and represents the best interest of all citizens of the City of Live Oak and promotes the aesthetics, health, safety, general welfare and convenience of the people.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LIVE OAK, TEXAS:

Section 1 . The City of Live Oak, Texas Code of Ordinances Appendix A – Zoning Regulations, Appendix B – Sign Regulations, Chapter 24 – Vegetation, and Chapter 17 – Planning are hereby repealed and replaced as set forth in Exhibit A attached hereto.

Section 2. Recitals.

The recitals contained in the preamble are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of facts.

Section 3. Penalty.

This Ordinance has a penalty associated with a violation and shall take effect immediately upon its publication as provided by law. Notice of the enactment of this ordinance will be given by publishing the ordinance or its descriptive caption and penalty in the City's official newspaper one time within 30 days of passage.

Section 4. Severability.

Should any section, or part of any section, or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not be held to invalidate or impair the validity, force or effect of any other section or sections, or part of a section or paragraph of this ordinance.

Section 5. Repealer.

The repeal or amendment of any ordinance, part of ordinances, or resolutions effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Live Oak under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

Section 6. Cumulative Clause.

This Ordinance shall be cumulative of all provisions of ordinances of the City of Live Oak, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions such ordinances and resolutions, in which event the conflicting provisions of such ordinances are hereby repealed. All other provisions of the Code of Ordinances shall remain in full force and effect.

Section 7. Meeting.

It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

Section 8. Effective Date

This Ordinance shall become effective and shall be in full force and effect on and after its date of passage, approval and adoption or publication as necessary.

PASSED AND APPROVED THIS 9th DAY of August 2022.

CITY OF LIVE OAK

By: Mary M. Dennis
Mary M. Dennis, Mayor

ATTEST:
Deborah L. Goza
Deborah L. Goza, City Secretary

Approved for Legal Sufficiency:
[Signature]
City Attorney's Office



Zoning Ordinance

August 9, 2022

Table of Contents

Article I. GENERAL PROVISIONS	6
Section 24-1 Title.....	6
Section 24-2 Enacting clause.....	6
Section 24-3 Purpose	6
Section 24-4 Provisions of ordinance declared to be minimum requirements.	6
Section 24-5 Interpretation and relationship to other regulations.	6
Section 24-6 Definitions	7
Article II. DISTRICTS, DISTRICT BOUNDARIES, OFFICIAL ZONING MAP, AND COMPLIANCE REQUIRED	15
Section 24-10 Districts.	15
Section 24-11 Boundaries	15
Section 24-12 Official zoning map.....	16
Section 24-13 Compliance Required	16
Section 24-14 Newly annexed territory	17
Article III DISTRICT REGULATIONS.....	17
Section 24-21. Pre-Development District (PD).....	17
Section 24-22. Single Family Residential District (R-1).....	17
Section 24-23 Garden Home Residential District-A (R-2A) – zero lot line	19
Section 24-24 Garden Home Residential District-B (R-2B) – conventional or traditional construction .	20
Section 24-25 Garden Home Residential District-C (R-2C) – conventional or traditional construction .	21
Section 24-26 Two Family Residential District (R-3)	22
Section 24-27 Town House Residential District (R-4).....	23
Section 24-28 Apartment/Multi-family Residential District (R-5).....	24
Section 24-29 Manufactured Home District (R-6).....	26
Section 24-30 Office and Professional District (B-1)	26
Section 24-31 Neighborhood Service District (B-2)	28
Section 24-32 General Business District (B-3).....	29
Section 24-33 Light Industrial District (I-1)	30
Section 24-34 Medium Industrial District (I-2).....	31
Section 24-35 Planned Unit Development (PUD)	32
Article IV LAND USE.....	33
Section 24-41 Schedule of Uses	33
Section 24-42 Classification of new and unscheduled uses.....	42

Article V ADDITIONAL STANDARDS FOR CERTAIN LAND USES	43
Section 24-46 Home occupations.	43
Section 24-48 Temporary field or construction office	44
Section 24-49 Location of sexually oriented businesses.....	44
Section 24-50 Outdoor display and storage.....	48
Section 24-51 Hotel.....	50
Article VI DEVELOPMENT DESIGN STANDARDS	50
Section 24-56 Building design	50
Section 24-57 Screening and buffering	50
Section 24-58 Landscaping.....	52
Section 24-59 Tree preservation and mitigation requirements	55
Article VII PARKING REGULATIONS	62
Section 24-66 Purpose.	62
Section 24-67 General provisions.	63
Section 24-68 Off-street parking requirements.....	64
Section 24-69 Loading and queueing requirements.	66
Section 24-70 Carports.....	67
Article VIII SIGNS	68
Section 24-76 Purpose.	68
Section 24-77 Objectives.....	68
Section 24-78 General provisions.	69
Section 24-79 Types of signs.	70
Section 24-80 Special district sign requirements.....	73
Section 24-81 Prohibited signs.....	74
Section 24-82 Parking of vehicles.	75
Section 24-83 Existing signs.	75
Section 24-84 Permits.	76
Section 24-85 Special sign use districts.....	77
Section 24-86 Penalties for violation.	79
Section 24-87 Variance and appeal procedure.	79
Section 24-88 Severability.....	80
Section 24-89 Definitions.	80
Section 24-90 Digital display regulations.	86
Section 24-91 Master sign plan.....	87
Article IX WIRELESS ANTENNAS AND ANTENNA FACILITIES	90

Section 24-96 Purpose.	90
Section 24-97 Definitions.	91
Section 24-98 Applicability/general regulations.	92
Section 24-99 Amateur radio antenna and TV antennas.	94
Section 24-100 Satellite receive only antennas, less than one meter in diameter.	95
Section 24-101 Satellite antennas greater than one meter in diameter.	96
Section 24-102 Placement on antenna facilities.	96
Section 24-103 Antenna facility impact levels.	97
Section 24-104 Antenna facility siting matrix.	98
Section 24-105 Special exception.	99
Section 24-106 Written report.	101
Section 24-107 Appeal.	101
Article X NONCONFORMING USES.	102
Section 24-111 Continuance of use.	102
Section 24-112 Change of use.	102
Section 24-113 Damage and destruction.	102
Section 24-114 Enlargement.	102
Section 24-115 Normal maintenance.	102
Section 24-116 Structural changes.	102
Article XI BOARDS AND COMMISSIONS.	103
Section 24-121 Planning and zoning commission.	103
Section 24-122 Board of adjustment.	104
Section 24-123 Tree care board.	106
Article XII ADMINISTRATION AND PROCEDURES.	108
Section 24-131 Administrative provisions.	108
Section 24-132 Annexation.	108
Section 24-133 Comprehensive land plan amendment.	109
Section 24-134 Zoning text amendments.	111
Section 24-135 Zoning classification changes (rezoning).	113
Section 24-136 Reserved.	115
Section 24-137 Specific use permits (SUP).	115
Section 24-138 Variances.	117
Section 24-139 Special exceptions.	120
Section 24-140 Appeals to the board of adjustment.	121
Section 24-141 Public hearings.	122

Section 24-142 Certificates of occupancy and compliance.....	124
Article XIII ENFORCEMENT	124
Section 24-151 Enforcement.....	124
Section 24-152 Violation and penalties.	125

Article I. GENERAL PROVISIONS

Section 24-1 Title

This ordinance shall be known as "The City of Live Oak, Texas, Zoning Ordinance."

Section 24-2 Enacting clause

That there be enacted the following Zoning Ordinance, which amends in its entirety, the Zoning Ordinance of the City of Live Oak, Texas, said amendments together with a map creating and delineating zoning districts.

Section 24-3 Purpose

The zoning regulations and districts as herein established have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, and general welfare of the city. They have been designed to lessen the congestion in the street; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the over-crowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration among other things, for the character of the district, and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city consistent with a comprehensive plan.

Section 24-4 Provisions of ordinance declared to be minimum requirements.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety, morals, and general welfare. Whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the requirement that is more restrictive or that imposes higher standards as determined by the building inspector shall govern.

Section 24-5 Interpretation and relationship to other regulations.

(a.) Conflicts between regulations

- (1.) In the event of a conflict between the requirements of this ordinance and State law, the requirements of State law shall apply.
- (2.) In the event of a conflict between the regulations contained within this ordinance and regulations or standards contained within any other ordinance, code or regulation of the City, the more restrictive regulation or regulation which imposes higher standards shall apply.
- (3.) In the event of a conflict between the regulations contained within this ordinance and the City's Development Manual or Technical Manual, the requirements of this ordinance shall apply.

(b.) Gender and number

- (1.) The use of the masculine herein includes the feminine; the use of the singular includes the plural.

Section 24-6 Definitions

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this article. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural number; and words used in the plural number include the singular number. The words "shall" and "will" are always mandatory while the word "may" is discretionary.

Any term not expressly defined in this section shall be construed in accordance with customary usage in municipal planning and engineering practices. If a question arises about a term, the city manager or his/her designee shall determine an appropriate definition and may use the American Planning Association's, A Planners Dictionary, or similar industry references.

Abutting property: Property abutting upon a street shall be understood as also abutting property on the other side of the street.

Accessory building: In a residential zoned district, a subordinate building, attached to or detached from the main building, without separate utilities, not used for commercial purposes and not rented or containing an accessory dwelling unit, a storage room for domestic storage only or space for one or more automobiles. In other districts, a subordinate building, the use of which is incidental to and used only in conjunction with the main building. Railroad cars, vehicles and shipping containers are prohibited from being used as accessory buildings.

Accessory dwelling unit: A residential dwelling unit located on the same lot as a single-family dwelling unit, which is in a detached unit or detached building. Accessory dwelling units shall be serviced on the same utility meters as the main building.

Accessory equipment and appliances: mechanical equipment and appliances which are ancillary to the primary use of the property, located outside of a structure, and are not classified as an accessory building. Examples of accessory equipment and appliances includes but is not limited to tire inflation equipment, building generators, and small ice storage freezers. This definition shall not include electric vehicle charging stations.

Agent: Person authorized by another to act for him, one entrusted with another's business.

Alley: A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

Apartment house: A multi-family dwelling containing three or more dwelling units within a single structure where the families live independently as separate housekeeping units which contain separate facilities for food preparation.

Automobile service station: Any premises used primarily for sales of petroleum products at retail direct to the customer, including accessories and service for vehicles.

Automobile and motor vehicle sales area: An open area, other than a street or required automobile parking space used for the display or sale of new or used automobiles or trailers, and where no repair

work is done except minor incidental repair of automobiles or trailers to be displayed and sold on the premises.

Babysitting: The caring for nine (9) or less non-resident children on an irregular basis.

Billboard: Any sign of advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote from said display.

Block: An area within the city enclosed by streets or alleys and occupied by or intended for buildings.

Boarding (lodging) house: A building other than a hotel, where lodging and meals for three or more persons are provided for compensation.

Breezeway: A covered passage one story in height connecting two buildings.

Building: Any structure erected for the support, shelter and enclosure of persons, animals, chattels, or movable property of any kind.

Building inspector: The legally designated inspection authority of the city, or the authorized representative.

Building line: A building limit fixed at a specific distance from the front or side boundaries of a lot beyond which a structure cannot lawfully extend.

Building setback line: The line within a property defining the minimum horizontal distance between a building and the adjacent street line.

Building, main: A structure in which is conducted the principal use of the lot on which it is situated.

Certificate of occupancy: A certificate issued by the building inspector for the use of a building, structure, and/or land complying with the provisions of all applicable city codes, ordinances, and regulations.

Church, Temple, Synagogue, Mosque or other place of worship: A building designed and used primarily for religious assembly and worship and those accessory activities which are customarily associated therewith, and the place of residence for ministers, priests, nuns or rabbis in a detached residential facility on the same premises, that is exempt from ad valorem taxes as permitted by State law. For the purposes of this definition, bible study and other similar activities which occur in a person's primary residence shall not be considered as a church, temple or place of worship.

City: City of Live Oak, Texas.

City official: The legally designated head of a city department or the authorized representative when acting in an official capacity.

City manager: The city manager for the City of Live Oak, Texas or his/her designee.

Clinic: An establishment of offices in which a group of physicians, dentists, or other practitioners of the healing arts, and allied professional assistants are associated for the purpose of diagnosing and treating ill or injured persons. A clinic may include a medical or dental laboratory, but may not include facilities for providing room or board for patients, nor may a clinic include offices or facilities for veterinarians.

Commercial amusement: Any enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gates of the activity. Commercial amusements include zoos, concerts, carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent shows, ferris wheels, children's rides,

roller coasters, skating rinks, ice rinks, traveling shows, bowling alleys, pool parlors, and similar enterprises.

Commercial radiology clinic: A facility devoted to conducting radiology processes including but not limited to nuclear medicine, ultrasound, CAT scanning, and routine radiography.

Commission: The planning and zoning commission of the City of Live Oak, Texas.

Common access route: A private way which affords the principal means of access to individual home lots or auxiliary buildings.

Common property: A parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a Planned Unit.

Comprehensive master plan: A legal document often in the form of a map and accompanying text adopted by the local legislative body. The plan is a compendium of its general policies regarding the long-term development of its jurisdiction. It is also called a "general plan" or "city plan."

Contractors storage/equipment yard: Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft. This use includes the on-site assembly of components that are used by the owner or occupant of the premises in the conduct of any building trades or building craft.

Convenience self-service station: An establishment for the retail sales of automotive petroleum products, but not including any type of automotive service and repair or body work.

Council: The City Council of Live Oak, Texas.

Court: An open, unoccupied space bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

Crosswalk way: A public right-of-way, six (6) feet or more in width between property lines, which provides pedestrian circulation.

Cul-de-sac: A street having but one outlet to another street, and terminated on the opposite end by a vehicular turn-around.

Day nursery: A commercial enterprise where ten (10) or more children are left for care between the hours of 7:00 a.m. and 11:30 p.m.

Dead-end street: A street, other than a cul-de-sac, with only one outlet.

District: A section of the City of Live Oak, for which regulations governing the zoning area, height, and use of buildings are uniform.

Drive-way: A minor entranceway off the common access route within the city, into an off-street parking area.

Duplicating-copy service: A retail facility for the reproduction of paper material by office type photocopiers, offset presses, and duplicators and shall not include the bulk printing of newspapers, magazines, books, etc.

Easement: An interest in land granted to the city by the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over and under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

Engineer: A person duly authorized and properly registered under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

Family: A group of two or more persons related by blood, marriage, or adoption residing together; this is the basic occupancy intended for "single-family residence" district.

Farm: An area of ten (10) acres or more, which is used for the usual farm products such as vegetable, fruits, trees, and grain and their storage on the area as well as the raising thereon of the usual farm poultry and farm animals such as horses, cattle, and sheep and including dairy farms with the necessary accessory uses for treating and storing the produce; provided, however, that the operation of such accessory use shall be secondary to that the normal activities.

Fence: A visual barrier constructed to a height of not more than eight (8) feet. A chain link fence is not considered a visual barrier.

Fraternal club or lodge: A membership organization, excepting one whose chief activity is a service customarily carried on as a business and excluding on-premises sale and/or consumption of alcoholic beverages, in the "B-1" through the "B-2" districts. Such use shall be nonprofit and with no retail sales of any nature being permitted in the "B-1" district.

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

Front yard: An open unoccupied space on a lot facing a street and extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main building or any projection thereof other than the projection of the usual steps or eave overhang.

Garage, commercial: A commercial garage is a premise and structure used for housing more than five (5) motor vehicles or where any vehicles are repaired for operation or kept for remuneration, hire, or sale.

Garage, private: An accessory building designed or used for the storage of not more than four motor-driven vehicles owned and used by the occupants of the building to which it is necessary. Not more than one of the vehicles may be a commercial vehicle of not more than two-ton capacity.

Garage, public: A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

Garden home: Is an individually owned single-family home, separated from its neighbor by a minimum of ten (10) feet on a lot having a minimum of five thousand (5,000) square feet.

Height, building: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building, to the highest point of ceiling of the top story in the case of a flat roof; to the decline of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.

Home occupations: Any occupation that is customarily performed at home that does not involve a structural change in the building, that does not require the employment of help, the installation of equipment, and shall not include beauty culture schools, beauty parlors, barber shops, electrician shops,

radio shops, plumber's shops, tinner shops, auto repair and/or painting, furniture repair, or other similar uses.

Hospitals: An institution or place where sick or injured in-patients are given medical or surgical care either at public (charity) or private expense.

Hotel: A building or arrangement of buildings designed and occupied as a temporary abiding place of individuals who are lodged with or without means, in which the rooms are usually occupied singly for hire, in which there are no provisions for cooking in individual rooms or apartment, and in which there are more than twelve (12) sleeping rooms.

Ice making/water vending station: a free standing unmanned automated vending station which sells ice and or water in a self-service style. Ice making/ water vending stations shall be separate and distinct from accessory equipment and appliances.

Individualized manufacturing of medical equipment: A facility where the actual manufacturing of medical equipment is performed by bending, forming, sewing, or molding for the fitting of an individual's needs.

Kennel: Any lot or premises on which three (3) or more dogs, more than the age of six (6) months, are kept.

Kindergarten: Any school, private or parochial, operating for profit or not, attended by four (4) or more children at any one time during part of a twenty-four (24) hour day, which provides a program of instruction for children below the first grade level in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

Laboratory: A facility devoted to the testing and/or analysis of any human or animal product. No manufacturing is conducted on the premises except for experimental or testing purposes. No testing or processing of any product that would be harmful to individuals or the environment shall be permitted.

Landscape buffer: A strip of land with natural or planted vegetation located between the structure and a property line intended to separate and partially obstruct the view of two adjacent land uses or properties from one another or rights-of-way. The landscape buffer may include any required screening for the site.

Loading space: A space within the main building or on the same lot therewith providing for the standing, loading or unloading of trucks, and having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

Lot: As used herein, a "lot" is the physical and undivided tract or parcel of land as shown on the duly recorded plat.

Lot area: The area of a lot between lot lines, including any portion of an easement which may exist within such lot lines.

Lot corner: A lot which has an interior angle of less than 135 degrees at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curve at the points of the intersection of the side lot lines intersect at an interior angle of less than 135 degrees.

Lot, double frontage: A lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

Lot, interior: A building lot other than a corner lot.

Lot of record: A lot which is part of a subdivision, the map of which has been recorded in the office of the County Clerk of Bexar County; or a parcel of land, the deed of which was recorded in the office of the County Clerk of Bexar County.

Medical appliances fitting and sales: A retail or professional establishment where medical equipment or appliances are prescribed, rented, or sold. These items may include braces, wheelchairs, crutches, beds, and hearing aids, etc.

Mini storage: One story units with no more than 15 storage units per building. To be used only for storage of private property and not for warehousing purposes.

Manufactured home: A movable or portable dwelling constructed to be towed by a motor vehicle on its own chassis over Texas Roads and Highways under special permit, connected to utilities, and designed without a permanent foundation, for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capability, or of two or more units separately towable but designed to joined into one integral unit. Travel trailers and campers shall be placed under this same section.

Manufactured home park: A unified development of manufactured home and travel trailer spaces arranged on a tract of land under single entity ownership, meeting all requirements of this ordinance.

Mobile food vendor: Any business which sells edible goods from a nonstationary location within the city. This includes food trucks, food trailers, concession carts and other vehicle mounted food service establishments designed to be readily movable.

Nonconforming use: The use of land or a building, or a portion thereof, which use does not conform with the use regulations of the district in which it is situated and which use was in existence prior to the effective date of this ordinance.

Occupancy: The use or intended use of the land or buildings by proprietors or tenants.

Open space: Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves or porches. Open space shall not include off-street parking.

Parking space: A marked area measuring nine feet by eighteen feet (9' x 18') with sufficient area for backing or maneuvering to permit free ingress and egress.

Pawn shop: An establishment where money is loaned on the security of personal property pledged and retained by the owners (pawnbroker).

Permit: An official document or certificate issued by the authority having jurisdiction authorizing performance of a specified activity.

Person: Any natural individual, firm, trust, partnership, association or corporation.

Plant nursery: A place where trees, shrubs, or flowering plants are raised from seed or otherwise in order to be transplanted or propagated.

Plat: A complete and exact plan for the subdivision of a tract of land into lots for building purposes, which, if approved, may be submitted to the county clerk for recording.

Public parking lot: Any premises used for the purpose of parking motor vehicles for remuneration. No repairs or sales will be permitted on the premises.

Recreational vehicle/boat/auto storage rental facility: A facility designed primarily for storage, on which recreational vehicles, pickup coaches, self-propelled motorized vehicles, ten trailers, travel trailers,

boats, and automobiles are parked or situated and used for the purpose of supplying to the public a parking space for such vehicles.

Residence, one family: A detached building having accommodation for and occupied by one family and not more than two (2) boarders or lodgers.

Residence, two family: A dwelling or group of dwellings on one plat containing separate living units for two or more families, but which may have joint services or facilities.

Restaurant/refreshment stand (drive-through only): A retail food business in a freestanding building that serves from a drive-through window to customers seated in their automobiles for consumption off the premises and that provides no indoor seating.

Right-of-way: The right given to the general public or groups of the general public to utilize in the future, property or rights of another without compensation of any kind at any time. Rights-of-way are created by private instruments, plat or law. Utilization when such future time arrives of such right-of-way will be by ordinance, resolution, statute, conveyance of any easement or through any act of the planning commission, declaring that such right-of-way shall thereafter be utilized by the general public or groups of the general public.

Setback line: A line which marks the setback distance from the property line, and establishes the minimum required front, side and rear yard space of a building plat.

Shopping center: An integrated grouping of commercial activity, primarily of a retail and personal service nature, in a single building complex having the individual establishments joined by a common covered pedestrian mall.

Short term rental: a privately owned dwelling, including but not limited to, a single family dwelling, multiple family attached dwelling, apartment house, condominium, duplex, or any portion of such dwellings, rented by the public for consideration, and used for dwelling, lodging, or sleeping purposes for any period less than thirty (30) days.

Sign: Any device or surface on which figures, letters, illustrations, photographs, designs, logos, or outlines and used for such purposes as identification of individuals, partnerships or organizations; advising of products and/or location which is visible to the public. This includes lights, banners and similar devices to attract attention but excludes signs affixed to motor vehicles.

Smoke lounge: An assembly establishment that is dedicated, in whole or in part to entertaining smokers of tobacco, electronic vaping devices or other similar substances and includes any establishment that allows either the payment of or consideration by a customer to the establishment for on-site delivery of tobacco, tobacco accessories, electronic vaping devices, vapor accessories or similar substances and products to the customer; and, the onsite smoking of such. This definition shall be construed to include establishments known variously as retail tobacco stores, tobacco product shops, hookah cafes, tobacco clubs, tobacco bars, vapor shops/lounges, and similar establishments, provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a "Smoke lounge".

Smoke/Vape Shop (including CBD): any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, tobacco paraphernalia, e-cigarettes, vaping devices, vapor accessories, CBD, CBD products, CBD paraphernalia, and similar substances and products; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes, tobacco, or CBD as an ancillary sale shall not be defined as a "Smoke/Vape Shop (including CBD)".

Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

Street: Any thoroughfare or public driveway, other than an alley, and more than twenty (20) feet in width, which has been dedicated or deeded to the public for public use.

Street line: A dividing line between a lot, tract, or parcel of land and a contiguous street.

Structure: Anything constructed or built, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

Structure, principal: The principal structure which fulfills the purpose for which the building plot is intended.

Structure alterations: Any change in the supporting member of a building, such as a bearing wall, column, beams or girders.

Tattoo parlor/body-piercing studio: An establishment whose principal business activity is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

Temporary Sales (parking lot vendors): a commercial activity where goods, merchandise, or services are sold or offered for sale from a temporary location or mobile location such as a vehicle, pop-up tent, or roadside stand without a permanent building or certificate of occupancy. This definition shall be construed to include activities known variously as temporary vendors, parking lot vendors, roadside vendors, and other similar establishments. Temporary Sales shall not include the occasional sale of goods and merchandise by non-profit organizations, when located on a site with a valid certificate of occupancy and permission from the property owner has been given.

Town house: A row of single-family dwelling units which are attached by one or more common walls.

Use: The purpose of activity for which the land or building thereby is designed arranged or intended, or for which it is occupied or maintained, and shall include any manner performance of such activity with respect to the performance standards of this ordinance.

Variance: A legal deviation of a district zoning regulation whose strict enforcement will result in undue hardship. Pecuniary hardship to the owner, standing alone, shall not be deemed to constitute undue hardship.

Yard: A space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front: A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots the front yard shall be considered a parallel to the street upon which the lot has its least dimension.

Yard, rear: A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies, or unenclosed porches.

Yard, side: A yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereto.

Section 24-7 to 24-9 Reserved

Article II. DISTRICTS, DISTRICT BOUNDARIES, OFFICIAL ZONING MAP, AND COMPLIANCE REQUIRED

Section 24-10 Districts.

The City of Live Oak is hereby divided into types of districts as follows:

PD	Pre-Development District
R-1	Single Family Residential District
R-2A	Garden Home District A—Zero Lot Line
R-2B	Garden Home District B—Conventional
R-2C	Garden Home District C – Conventional
R-3	Two Family Residential District
R-4	Town Houses Residential District
R-5	Apartment/Multi Family Residential District
R-6	Manufactured Home District
B-1	Office and Professional District
B-2	Neighborhood Services District
B-3	General Business District
I-1	Light Industrial District
I-2	Medium Industrial District
PUD	Planned Unit Development District

Section 24-11 Boundaries

The boundaries of these districts are indicated upon the zoning map of the City of Live Oak, which is on file in the offices of the city and made a part of this ordinance, the same as if copied in full herein. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- (a.) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines.
- (b.) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c.) Boundaries indicated as approximately following city limits shall be construed as following such city limits.
- (d.) Boundaries indicated as following shorelines of creeks shall be construed to follow such shorelines; and in the event of their movement, the boundaries shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
- (e.) Boundaries indicated as following railroad lines shall be construed to be midway between the rails of the main line.
- (f.) In unsubdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.
- (g.) In the case of a district boundary line dividing a property into two parts, the property will remain divided until the property owner, firm or corporation petitions the city council for rezoning.
- (h.) Whenever any street, alley or other public way is vacated by official action of the city council the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

Section 24-12 Official zoning map

- (a.) The official zoning map shall be kept in the office of the city manager and one copy shall be posted in the council chambers.
- (b.) It shall be the duty of the city manager or his/her designee to keep the official map current and the copies thereof, herein provided for, by entering on such maps any changes which the city council may from time to time order by amendments to the zoning ordinance and map.
- (c.) The city secretary, upon the adoption of this ordinance, shall affix a certificate identifying the map as the Official Zoning Map of the city. The city secretary shall likewise officially identify the copies directed to be kept by the planning and zoning commission and in the council chambers. All amendments to the map shall be made immediately after their enactment and the date of the change shall be noted on the certificate.

Section 24-13 Compliance Required

No land shall be used for and no building shall be erected for or converted to any use other than provided in the regulations prescribed for the district in which it is located, except as hereinafter provided.

- (a.) The minimum yards, parking spaces, and open space, including lot area per family, required by the height and area provisions of this ordinance for each and every building existing at the time of passage of this ordinance or for any building hereafter erected, shall not be encroached upon or

considered as part of the yard or parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this ordinance for the district in which such lot is located.

Section 24-14 Newly annexed territory

- (a.) Annexed territory-temporary classification. Unless a permanent zoning classification is otherwise requested with the annexation, all territory hereafter annexed to the City of Live Oak shall be temporarily classified as PD, Pre-Development District. The planning and zoning commission will review all territory for consideration of zoning within 180 days of annexation. The procedure for establishing permanent classification of annexed territory shall conform to the procedure established by law for the adoption of the original zoning regulations.

Section 24-15 to 24-20 Reserved

Article III DISTRICT REGULATIONS

Section 24-21. Pre-Development District (PD)

- (a.) Statement of purpose and intent. Pre-Development district (PD) is intended for use for undeveloped land in the city or as a temporary designation for existing uses for newly annexed property. This zoning is also suitable for areas where development is premature due to lack of utilities, capacity or service and for areas that are unsuitable for development because of physical constraints or potential health or safety hazards.
- (b.) In an area temporarily classified as PD, Pre-Development District:
- (1.) No person shall erect, construct, or add to any building or structure or cause the same to be done in any newly annexed territory without first applying for appropriate zoning.
 - (2.) No permit for the construction of a building or use of land shall be issued by the Building Permit Official other than a permit which will allow the construction of a building permitted in the PD, Pre-Development District, unless and until such territory has been classified in a district other than the PD, Pre-Development District, by the city council in the manner provided by law, except that a building permit may be issued in accordance with the provisions as follows:
 - (3.) Use Regulations. In a Pre-Development District no land shall be used for and no building shall be erected for or converted to any use other than:
 - a. See Schedule of Uses.

Section 24-22. Single Family Residential District (R-1)

- (a.) Statement of purpose and intent. Single family residential district (R-1) is intended for single-family detached residential dwellings on a minimum lot size of 7,200 square feet, together with the schools, churches, and parks necessary to create basic neighborhood units.
- (b.) Use regulations. A building or premise shall be used only for the following purposes:

- (1.) See Schedule of Uses.
- (c.) Height regulations.
- (1.) No building shall exceed thirty-five (35) feet in height.
- (d.) Area Regulations.
- (1.) Front yard setback.
- a. The front yard setback shall be a minimum of twenty-five (25) feet.
 - b. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.
 - c. Where a lot fronts on one street and abuts another street in the rear, there shall be a one foot non-access easement across the rear of the lot.
- (2.) Side yard setback.
- a. There shall be a side yard on each side of the lot having a width of not less than five (5) feet, except the side yards adjacent to a side street shall not be less than ten (10) feet. The projection of a roof eave into the required side yard shall not exceed eighteen (18) inches.
 - b. Reverse frontage. On corner lots, where interior lots have been platted, fronting on the side street, a side yard shall be provided on the street side equal to the front yard on the lots in the rear. No accessory building on said corner lot shall project beyond the front line of the lots in the rear.
- (3.) Rear yard setback.
- a. There shall be a rear yard having a depth of not less than thirty (30) feet. A main residential building may extend into the required rear yard a maximum of ten (10) feet, provided the cumulative width of such extension is not greater than one-half ($\frac{1}{2}$) of the width of the rear yard determined as the minimum width within the rear yard setback. The cumulative combination of extensions of main buildings and detached accessory buildings may not occupy more than 30% of the required rear yard.
- (4.) Area of lot.
- a. The minimum area of the lot shall be seventy-two hundred (7,200) square feet.
- (5.) Width of lot.
- a. The minimum width of the lot shall be sixty (60) feet.
- (6.) Depth of Lot.
- a. The minimum depth of the lot shall be one hundred twenty (120) feet.
- (e.) Accessory buildings and accessory dwelling units.
- (1.) Accessory buildings, includes a private garage. When the accessory building is directly attached to the main building it shall be considered an integral part of the main building. When the accessory building is attached to the main building by a breezeway, the breezeway may be considered a part of the accessory building. When the breezeway extends into the required rear yard it, together with the accessory building or buildings, may occupy not more than 30% of the required rear yard. The floor area of all the accessory buildings on the lot shall not exceed seventy five (75) percent of the floor area of the principal structure exclusive of breezeways and

attached garage, provided however, that this regulation shall not reduce the total floor area of all accessory buildings on one lot to less than six hundred (600) square feet and shall not apply to bona fide farm and agricultural buildings. Accessory buildings shall not be constructed closer than five (5) feet from the side or rear lot lines. Accessory buildings shall not be greater in height than the main building.

- (2.) Accessory dwelling units shall comply with the same requirements as accessory buildings listed above. Accessory dwelling units shall be serviced on the same utility meters as the main building.

Section 24-23 Garden Home Residential District-A (R-2A) – zero lot line

- (a.) Statement of purpose and intent. Garden home residential district-A (R-2A) is intended for single-family detached residential dwellings on a minimum lot size of 5,000 square feet, together with the schools, churches, and parks necessary to create basic neighborhood units. This district allows the main structure to be constructed coincident with one (1) of the side property lines, and requires only one (1) side yard setback in order to maximize lot usage and yet maintain a neighborhood character consistent with conventional single-family detached homes.
- (b.) Use regulations. A building or premise shall be used only for the following purposes:
 - (1.) See Schedule of Uses.
- (c.) Height regulations.
 - (1.) No building shall exceed thirty-five (35) feet in height.
- (d.) Requirements. The plat of the requested area shall incorporate the requirements for an R-2A as follows:
 - (1.) Zero lot line, one-family dwellings may be constructed in an area requested and approved for designation as R-2A.
 - (2.) Zero lot line homes shall be uniformly located on the same side of the lot within a street block and shall not be constructed on less than five (5) adjoining lots.
 - (3.) Zero lot line homes shall have no windows on the zero lot line side of the lot within a street block.
 - (4.) The entire frontage of one side of the street in the block must be included in the R-2A designation. An exception may be made where an alley breaks the block on that side of the street.
- (e.) Area regulations.
 - (1.) Front yard setback.
 - a. The front yard setback shall be a minimum of twenty (20) feet.
 - (2.) Side yard setback
 - a. The building may be constructed with a zero side yard on one side and a side yard of not less than ten (10) feet on the other side. This ten (10) foot side yard shall extend the full depth of the lot. Five (5) feet of the ten (10) foot side yard shall be designated as a maintenance easement. This easement shall extend the depth of the lot.

- b. When designed as a traditional center loaded lot that is not a zero lot line home, the side yard setback shall be a minimum of five (5) feet, except the side yard setbacks adjacent to a side street shall not be less than ten (10) feet.
- c. Exceptions are permitted so that the end houses of the block shall have a ten (10) foot side yard setback from the street right-of-way. Under no circumstances shall the setback between the lots be less than ten (10) feet.

(3.) Rear yard setback.

- a. There shall be a rear yard having a depth of not less than ten (10) feet.

(4.) Area of lot.

- a. The minimum area of the lot shall be five thousand (5,000) square feet.

(5.) Width of lot.

- a. The minimum width of the lot shall be fifty (50) feet.

(6.) Depth of lot.

- a. The minimum depth of the lot shall be one hundred (100) feet.

(7.) Accessory buildings.

- a. No accessory building as permitted herein, shall occupy more than forty (40) percent of the required rear yard. Accessory buildings shall be set back three (3) feet from property lines. No accessory building may be closer than ten (10) feet to the main building in the rear yard. Accessory buildings shall not be allowed in front or side yards. Accessory buildings shall not be greater in height than the main building.

Section 24-24 Garden Home Residential District-B (R-2B) – conventional or traditional construction

(a.) Statement of purpose and intent. Garden home residential district-B (R-2B) is intended for single-family detached residential dwellings on a minimum lot size of 6,200 square feet, together with the schools, churches, and parks necessary to create basic neighborhood units.

(b.) Use regulations. A building or premise shall be used only for the following purposes:

- (1.) See Schedule of Uses.

(c.) Height regulations.

- (1.) No building shall exceed thirty-five (35) feet in height.

(d.) Requirements. The plat of the requested area shall incorporate the requirements for a R-2B area, as follows:

- (1.) Conventional or Traditional Construction, single family dwellings may be constructed in an area requested and approved for designation R-2B.
- (2.) The entire frontage of one side of the street in the block must be included in the R-2B designation. An exception may be made where an alley breaks the block on that side of the street.

(e.) Area regulations.

(1.) Front yard setback.

- a. The front yard setback shall be a minimum of twenty (20) feet.

(2.) Side yard setback

- a. The side yard setback for R-2B Garden Home District shall be a minimum of five (5) feet. Corner lots shall have a ten (10) foot side yard setback from the street right-of-way. The projection of a roof eave into the required side yard shall not exceed eighteen (18) inches.

(3.) Rear yard setback

- a. There shall be a rear yard having a depth of not less than twenty-five (25) feet. A main residential building may extend into the required rear yard a maximum of ten (10) feet, provided the cumulative width of such extension is not greater than one-half (1/2) of the width of the rear yard determined as the minimum width within the rear yard setback. The cumulative combination of extensions of main buildings and detached accessory buildings may not occupy more than 40% of the required rear yard.

(4.) Area of lot.

- a. The minimum area of the lot shall be six thousand two hundred (6,200) square feet.

(5.) Width of lot.

- a. The minimum width of the lot shall be fifty-five (55) feet.

(6.) Depth of lot.

- a. The minimum depth of the lot shall be one hundred ten (110) feet.

(f.) Accessory buildings.

- (1.) No accessory building as permitted herein, shall occupy more than forty percent (40%) of the required rear yard. Accessory buildings shall be set back three (3) feet from property lines. No accessory building may be closer than ten (10) feet to the main building in the rear yard. Accessory buildings shall not be allowed in the front or side yards. Accessory buildings shall not be greater in height than the main building.

Section 24-25 Garden Home Residential District-C (R-2C) – conventional or traditional construction

- (a.) Statement of purpose and intent. Garden home residential district-C (R-2C) is intended for single-family detached residential dwellings on a minimum lot size of 5,000 square feet, together with the schools, churches, and parks necessary to create basic neighborhood units.
- (b.) Use regulations. A building or premise shall be used only for the following purposes:
 - (1.) See Schedule of Uses.
- (c.) Height regulations.
 - (1.) No building shall exceed thirty-five (35) feet in height.
- (d.) Area regulations.
 - (1.) Front yard setback.

- a. The front yard setback shall be a minimum of twenty (20) feet.
- (2.) Side yard setback.
 - a. The side yard setback for R-2C Residential District shall be a minimum of five (5) feet. Corner lots shall have a ten (10) foot side yard setback from the street right-of-way. The projection of a roof eave into the required side yard shall not exceed eighteen (18) inches.
- (3.) Rear yard setback.
 - a. There shall be a rear yard having a depth of not less than fifteen (15) feet.
- (4.) Area of lot.
 - a. The minimum area of the lot shall be five thousand (5,000) square feet.
- (5.) Width of lot.
 - a. The minimum width of the lot shall be fifty (50) feet.
- (6.) Depth of lot.
 - a. The minimum depth of the lot shall be one hundred (100) feet.
- (7.) Accessory buildings.
 - a. No accessory building as permitted herein, shall occupy more than forty (40) percent of the required rear yard. Accessory buildings shall be set back three (3) feet from property lines. No accessory building may be closer than five (5) feet to the main building in the rear yard. Accessory buildings shall not be allowed in the front or side yards. Accessory buildings shall not be greater in height than the main building.

Section 24-26 Two Family Residential District (R-3)

- (a.) Statement of purpose and intent. Two family residential district (R-3) is intended for single-family detached residential dwellings on a minimum lot size of 7,200 and for two single-family attached residential dwellings with a minimum lot size of 9,000 square feet, together with the schools, churches, and parks necessary to create basic neighborhood units.
- (b.) Use regulations. A building or premise shall be used only for the following purposes:
 - (1.) See Schedule of Uses.
- (c.) Height regulations.
 - (1.) No building shall exceed thirty-five (35) feet height.
- (d.) Area regulations.
 - (1.) Front yard setback.
 - a. The front yard setback shall a minimum of thirty (30) feet.
 - (2.) Side yard setback.
 - a. There shall be a side yard on each side of the lot having a minimum width of not less than ten (10) feet.

- b. Reverse frontage. On corner lots, where interior lots have been platted, fronting on the side street, a side yard shall be provided on the street side equal to the front yard on the lots in the rear. No accessory building on said corner lot shall project beyond the front line of the lots in the rear.
- (3.) Rear yard setback.
 - a. There shall be a rear yard having a depth of not less than thirty (30) feet.
- (4.) Area of lot. Except as hereinafter provided all dwellings erected, enlarged, relocated, reconstructed, or converted shall be located upon lots containing the following areas:
 - a. A lot on which a single family dwelling is located shall contain not less than seven thousand two hundred (7,200) square feet.
 - b. A lot on which a two family dwelling is located shall contain not less than nine thousand (9,000) square feet.
- (5.) Width of lot. Except as hereinafter provided all dwellings erected, enlarged, relocated, reconstructed, or converted shall be located upon lots containing the following minimum widths:
 - a. The minimum width of the lot shall be sixty (60) feet for a single family dwelling.
 - b. The minimum width of the lot shall be seventy-five (75) feet for a two family dwelling.
- (6.) Depth of lot.
 - a. The minimum depth of the lot shall be one hundred twenty (120) feet.
- (e.) Accessory buildings.
 - (1.) No accessory building as permitted herein, shall occupy more than forty (40) percent of the required rear yard. Accessory buildings shall be set back three (3) feet from property lines. No accessory building may be closer than five (5) feet to the main building in the rear yard. Accessory buildings shall not be allowed in the front or side yards. Accessory buildings shall not be greater in height than the main building.

Section 24-27 Town House Residential District (R-4)

- (a.) Statement of purpose and intent. Town house residential district (R-4) is intended for attached residential dwelling unit in structures built to accommodate three (3) to ten (10) units per structure. Density shall not exceed twelve (12) units per gross acre. Townhome units shall be constructed on adjacent individual lots. Minimum lot area shall not be less than 2,500 square feet per lot. A minimum of 600 square feet per dwelling unit shall be provided as common, usable open space. This district should not be located in areas where it would increase traffic through single-family neighborhoods and should be adjacent to collector or arterial streets with sufficient capacity to carry the increased traffic generated.
- (b.) Use regulations. A building or premise shall be used only for the following purposes:
 - (1.) See Schedule of Uses.
 - (2.) In a town house district, no land shall be used and no buildings erected or relocated for or converted to any use other than single family attached dwellings (town houses). Each dwelling unit shall be located on a separate lot, and front on a street.

(c.) Height regulations.

- (1.) No building shall exceed three stories or forty-five (45) feet in height.

(d.) Area regulations.

(1.) Front yard setback.

- a. The minimum front yard shall be twenty (20) feet setback.

(2.) Side yard setback.

- a. None permitted, except that no portion of a town house or accessory structure in, or related to, one group of contiguous town houses shall be closer than twenty (20) feet to any portion of a town house or accessory structure related to another group. Each corner lot shall have a side yard of at least ten (10) feet, except that in the case of reversed frontage, a side yard equal, at least, to the depth of the front yard required for a structure fronting the side street shall be required.

(3.) Rear yard setback

- a. A thirty-five (35) foot rear yard shall be required.

(4.) Area of lot.

- a. The minimum area of the lot shall be two thousand (2,000) square feet.

(5.) Width of lot.

- a. The minimum width of the lot shall be twenty (20) feet.

(6.) Depth of lot.

- a. The minimum depth of the lot shall be one hundred (100) feet.

(e.) Density regulations.

- (1.) No town house development shall exceed a density of more than twelve (12) units per gross acre. Each structure of attached town houses shall contain no less than three (3) units, nor more than ten (10) units per structure.

(f.) Accessory buildings.

- (1.) Their use is permitted when located on the same lot and does not involve the conduct of business. No accessory building as permitted herein, shall occupy more than forty (40) percent of the required rear yard. Accessory buildings shall be set back three (3) feet from property lines. No accessory building may be closer than ten (10) feet to the main building in the rear yard. Accessory buildings shall not be allowed in front or side yards. Accessory buildings shall not be greater in height than the main building.

Section 24-28 Apartment/Multi-family Residential District (R-5)

- (a.) Statement of purpose and intent. Apartment/multi-family residential district (R-5) is intended for apartment and multi-family developments including, but not limited to apartment buildings, duplex, garden apartments and condominium units. Apartment/multi-family residential districts should not be located in areas where they would increase traffic through single-family neighborhoods and should be located adjacent to arterial streets with sufficient capacity to carry the increased traffic

generated. Multi-family developments are suitable buffers between single-family districts and commercial uses.

(b.) Use regulations. A building or premise shall be used only for the following purposes:

(1.) See Schedule of Uses.

(c.) Height regulations.

(1.) No building shall exceed three stories or forty-five (45) feet in height.

(d.) Area regulations.

(1.) Front yard setback.

a. The front yard setback shall be a minimum of thirty (30) feet.

b. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.

(2.) Side yard setback.

a. The side yard setback for R-5 Apartment/multi-family residential district shall be a minimum of ten (10) feet. Corner lots shall have a fifteen (15) foot side yard setback from the street right-of-way. The projection of a roof eave into the required side yard shall not exceed eighteen (18) inches.

(3.) Rear yard setback.

a. There shall be a rear yard having a depth of not less than twenty-five (25) feet.

(4.) Area of lot.

a. The minimum area of the lot shall be seven thousand two hundred (7,200) square feet.

(5.) Width of lot.

a. Minimum width of lot shall be sixty (60) feet.

(6.) Depth of lot.

a. Minimum depth of lot shall be one hundred twenty (120) feet.

(e.) Density regulations.

(1.) No multi-family development shall exceed a density of more than twenty-two (22) units per gross acre.

(f.) Accessory buildings.

(1.) No accessory building as permitted herein, shall occupy more than forty (40) percent of the required rear yard. Accessory buildings shall be set back three (3) feet from the property line. No accessory building may be closer than ten (10) feet to the main building in the rear yard. Accessory buildings as permitted herein may be allowed in required side yards, provided, however, that no accessory building may be closer than ten (10) feet to any main building on the same lot, nor closer than three (3) feet to a common property line. No accessory buildings shall be allowed in the front yard. Accessory buildings shall not be greater in height than the main building.

Section 24-29 Manufactured Home District (R-6)

- (a.) Statement of purpose and intent. Manufactured home district (R-6) is intended to recognize that certain areas of the city are suitable for a mixture of single-family dwelling units and HUD-Code manufactured homes, to provide adequate space and site diversification for residential purposes designed to accommodate the peculiarities and design criteria of manufactured homes, along with single-family residences, to promote the most desirable use of land and direction of building development, to promote stability of development, to protect the character of the district, to conserve the value of land and buildings, and to protect the city's tax base. This district provides for the creation and/or subdivision of any lot, tract or parcel of land used for the placement of manufactured homes. This district is not intended to prohibit or unduly restrict any type of housing but to ensure compatibility in housing types between manufactured home subdivisions and surrounding single family residential subdivisions and recognizing their inherent differences.
- (b.) Use regulations. A building or premise shall be used only for the following purposes:
 - (1.) See Schedule of Uses.
 - (2.) Also, see Mobile Home Ordinance Number 186 and amendment thereto
- (c.) Height regulations.
 - (1.) No building shall exceed thirty (30) feet in height.
 - (2.) The average height of the manufactured home frame above the ground elevation, measured at 90° to the frame, shall not exceed three (3) feet.
- (d.) Area regulations.
 - (1.) The minimum front yard setback shall be ten (10) feet from the nearest corner of the manufactured home to the front line of the manufactured home space.
 - (2.) No manufactured home shall be closer than ten (10) feet to any property line nor closer than twenty-five (25) feet to the property line adjoining a public street.
 - (3.) For other structures on each space the minimum setback shall be at least ten (10) feet.
 - (4.) The minimum distance between manufactured homes at any point shall be twenty-five (25) feet; provided, however, that manufactured homes parked end to end may have a clearance of not less than ten (10) feet.
- (e.) Accessory buildings.
 - (1.) No accessory building as permitted herein, shall occupy more than forty percent (40%) of the rear yard. Accessory buildings shall be set back three (3) feet from property lines. No accessory building may be closer than ten (10) feet to the main building in the rear yard. Accessory buildings shall not be allowed in the front or side yards. Accessory buildings shall not be greater in height than the main building.

Section 24-30 Office and Professional District (B-1)

- (a.) Statement of purpose and intent. Office and professional district (B-1) is intended to provide suitable areas for the development of office structures as well as office park developments on appropriately designed and attractively landscaped sites. It is also intended to provide ancillary retail service (restaurants, coffee shops, newsstands, etc.) for such office developments. Due to the

intensity of these developments, this district should be generally located along major transportation corridors, and be properly buffered from less intensive residential uses.

(b.) Use regulations. A building or premise shall be used only for the following purposes:

(1.) See Schedule of Uses.

(c.) Height regulations.

(1.) No building shall exceed thirty-five (35) feet in height.

(d.) Area regulations.

(1.) Front yard setback.

a. The front yard setback shall be a minimum of twenty-five (25) feet.

(2.) Side yard setback.

a. No side yard setback shall be required except:

i. On a corner lot a side yard of ten (10) feet shall be required on the side street.

ii. Reverse frontage. On corner lots, where interior lots have been platted, fronting on the side street, a side yard shall be provided on the street side equal to the front yard on the lots in the rear.

iii. On the side of lot in this district adjoining a residential district, there shall be a side yard of twenty-five (25) feet. No side yard shall be required where the district is separated from the residential district by an alley.

(3.) Rear yard setback.

a. When lots abut property with residential zoning, there shall be rear yards having a minimum depth of twenty-five (25) feet; no rear yard shall be required when abutting another non-residential zoning district (such as B-1 District, B-2 District, B-3 District or Industrial Districts).

(4.) Area of lot.

a. The minimum area of the lot shall be six thousand (6,000) feet.

(5.) Width of lot.

a. The minimum width of the lot shall be sixty (60) feet.

(6.) Depth of lot.

a. The minimum depth of the lot shall be one hundred (100) feet.

(e.) Accessory buildings.

(1.) No accessory building, as permitted herein shall occupy more than forty (40) percent of the required rear yard. Accessory buildings shall be set back three (3) feet from the rear property line; provided, however, that where the rear lot line is the line of an alley twenty (20) feet or more in width, no setback shall be required. No accessory building may be closer than ten (10) feet to the main building in the rear yard. Accessory buildings, as permitted herein, may be allowed in required side yards, provided; however, that no accessory building may be closer than ten (10) feet to any main building on the same lot, nor closer than three (3) feet to a common property line. No accessory buildings shall be allowed in the front yards. Accessory buildings shall not be greater in height than the main building.

Section 24-31 Neighborhood Service District (B-2)

- (a.) Statement of purpose and intent. Neighborhood service district (B-2) is intended to provide suitable areas for the development of certain limited service and retail uses in proximity to residential neighborhoods in order to more conveniently accommodate the basic everyday retail and service needs of nearby residents. Such uses occur most often on the periphery of established neighborhoods at the intersection of collectors and minor arterials, and are generally on sites of approximately one (1) to three (3) acres in size. These developments are to have generous landscaping and contain non-residential uses, which do not typically attract long distance traffic trips. This district should be properly buffered from residential uses and protected from pollution and/or environmental hazards.
- (b.) Use regulations. A building or premise shall be used only for the following purposes:
 - (1.) See Schedule of Uses.
- (c.) Height regulations.
 - (1.) No building shall exceed fifty (50) feet in height.
- (d.) Area regulations.
 - (1.) Front yard setback.
 - a. The front yard setback shall be a minimum of twenty-five (25) feet.
 - (2.) Side yard setback.
 - a. No side yard setback shall be required except:
 - i. On a corner lot a side yard of ten (10) feet shall be required on the side street.
 - ii. Reverse frontage. On corner lots, where interior lots have been platted, fronting on the side street, a side yard shall be provided on the street side equal to the front yard on the lots in the rear.
 - iii. On the side of lot in this district adjoining a residential district, there shall be a side yard of twenty-five (25) feet. No side yard shall be required where the district is separated from the residential district by an alley.
 - (3.) Rear yard setback.
 - a. When lots abut property with residential zoning, there shall be rear yards having a minimum depth of twenty-five (25) feet; no rear yard shall be required when abutting another non-residential zoning district (such as B-1 District, B-2 District, B-3 District or Industrial Districts).
 - (4.) Area of lot.
 - a. The minimum lot area shall be ten thousand (10,000) square feet.
 - (5.) Width of lot.
 - a. The minimum lot width shall be seventy-five (75) feet.
 - (6.) Depth of lot.
 - a. The minimum lot depth shall be one hundred (100) feet.

(e.) Accessory buildings.

- (1.) No accessory building, as permitted herein shall occupy more than forty (40) percent of the required rear yard. Accessory buildings shall be set back three (3) feet from the rear property line; provided, however, that where the rear lot line is the line of an alley twenty (20) feet or more in width, no setback shall be required. No accessory building may be closer than ten (10) feet to the main building in the rear yard. Accessory buildings, as permitted herein, may be allowed in required side yards, provided; however, that no accessory building may be closer than ten (10) feet to any main building on the same lot, nor closer than three (3) feet to a common property line. No accessory buildings shall be allowed in the front yards. Accessory buildings shall not be greater in height than the main building.

Section 24-32 General Business District (B-3)

(a.) Statement of purpose and intent. General business district (B-3) is intended to provide suitable areas for the development of non-residential uses which offer a wide variety of retail and service establishments that are generally oriented toward serving the overall needs of the entire community. These businesses are usually located on appropriately designed and attractively landscaped sites and along principal transportation corridors.

(b.) Use regulations. A building or premise shall be used only for the following purposes:

- (1.) See Schedule of Uses.

(c.) Height regulations.

- (1.) No building shall exceed sixty-five (65) feet in height.

(d.) Area regulations.

(1.) Front yard setback.

- a. The front yard setback shall be a minimum of twenty-five (25) feet.

(2.) Side yard setback.

- a. No side yard setback shall be required except:

- i. On a corner lot a side yard of ten (10) feet shall be required on the side street.
- ii. Reverse frontage. On corner lots, where interior lots have been platted, fronting on the side street, a side yard shall be provided on the street side equal to the front yard on the lots in the rear.
- iii. On the side of lot in this district adjoining a residential district, there shall be a side yard of twenty-five (25) feet. No side yard shall be required where the district is separated from the residential district by an alley.

(3.) Rear yard setback.

- a. When lots abut property with residential zoning, there shall be rear yards having a minimum depth of twenty-five (25) feet; no rear yard shall be required when abutting another non-residential district (such as B-1 District, B-2 District, B-3 District or Industrial Districts).

(4.) Area of lot.

- a. The minimum lot area shall be ten thousand (10,000) square feet.

(5.) Width of lot.

- a. The minimum width of the lot shall be one hundred (100) feet.

(6.) Depth of lot.

- a. The minimum depth of the lot shall be one hundred (100) feet.

(e.) Accessory buildings.

- (1.) No accessory building, as permitted herein, shall occupy more than forty (40) percent of the required rear yard. Accessory buildings shall be set back three (3) feet from the rear property line; provided, however, that where the rear line of the lot is the line of an alley twenty (20) feet or more in width, no setback shall be required. Accessory buildings shall not be greater in height than the main building.

Section 24-33 Light Industrial District (I-1)

- (a.) Statement of purpose and intent. Light industrial district (I-1) is intended to provide a suitable area for the development of light industrial, assembly and manufacturing, warehouse and distribution facilities. These facilities should not emit dust, odor, smoke, gas or fumes, or any other hazardous elements, which are detectable beyond the boundary of the property. Sound and noise should not be generated in frequency or pressure above the ambient level of noise in the adjacent areas. Due to the traffic generated by such uses, these districts should be located on arterial streets. In reviewing the proposed development, other infrastructure considerations such as water, electric, sewer, gas and fire line pressure should be taken into account. Where several lots are to be jointly developed as a light manufacturing area, restrictive covenants and development restrictions encouraging high-level design and maintenance are encouraged.

- (b.) Use regulations. A building or premise shall be used only for the following purposes:

- (1.) See Schedule of Uses.

- (c.) Height regulations.

- (1.) No building shall exceed seventy (70) feet in height.

- (d.) Area regulations.

- (1.) Front yard setback.

- a. There shall be provided a front building setback of no less than fifty (50) feet.

- (2.) Side yard setback.

- a. There shall be provided a side building setback no less than twenty-five (25) feet.

- (3.) Rear yard setback.

- a. No rear yard is required, except that a rear yard of not less than fifty (50) feet in depth shall be provided upon that portion of a lot abutting or across a rear street from a residential district, except that such yard requirement shall not apply where the property in the residential district also backs up to the rear street. No parking, storage, or similar use shall be allowed in required rear yards in I-1 Districts within twenty-five (25) feet of the rear property line.

- (4.) Area of lot.

- a. The minimum area of the lot shall be ten thousand (10,000) square feet.
- (5.) Width of lot.
 - a. The minimum width of the lot shall be one hundred (100) feet.
- (6.) Depth of lot.
 - a. The minimum depth of the lot shall be one hundred (100) feet.
- (7.) Accessory buildings.
 - a. Accessory buildings shall comply with the same height and area regulations as the main building. No accessory buildings shall be allowed in the front yards. Accessory buildings shall not be greater in height than the main building.

Section 24-34 Medium Industrial District (I-2)

- (a.) Statement of purpose and intent. Medium industrial district (I-2) is intended to provide a suitable park-like area for the development of intensive industrial/manufacturing activities, which tend to emit certain offensive features such as odor, noise, dust, smoke and/or vibrations, but under controlled conditions.
- (b.) Use regulations. A building or premise shall be used only for the following purposes:
 - (1.) See Schedule of Uses.
- (c.) Height regulations.
 - (1.) No building shall exceed seventy (70) feet in height.
- (d.) Area regulations.
 - (1.) Front yard setback.
 - a. There shall be provided a front building setback of no less than fifty (50) feet.
 - (2.) Side yard setback.
 - a. There shall be provided a side building setback no less than twenty-five (25) feet.
 - (3.) Rear yard setback.
 - a. No rear yard is required, except that a rear yard of not less than fifty (50) feet in depth shall be provided upon that portion of a lot abutting or across a rear street from a residential district, except that such yard requirement shall not apply where the property in the residential district also backs up to the rear street. No parking, storage, or similar use shall be allowed in required rear yards in I-1 Districts within twenty-five (25) feet of the rear property line.
 - (4.) Area of lot.
 - a. The minimum area of the lot shall be ten thousand (10,000) square feet.
 - (5.) Width of lot.
 - a. The minimum width of the lot shall be one hundred (100) feet.
 - (6.) Depth of lot.

- a. The minimum depth of the lot shall be one hundred (100) feet.

(7.) Accessory buildings.

- a. Accessory buildings shall comply with the same height and area regulations as the main building. No accessory buildings shall be allowed in the front yards. Accessory buildings shall not be greater in height than the main building.

Section 24-35 Planned Unit Development (PUD)

- (a.) Statement of purpose and intent. Planned unit development district (PUD) is intended to promote and encourage innovative development that is sensitive to surrounding land uses and to the natural environment. PUD's are also intended to encourage flexible and creative planning, ensure the compatibility of land uses, incorporate new planning concepts into a development, allow for the adjustment of changing demands to meet the current needs of the community, and to result in a higher quality development for the community than would result from the use of conventional zoning districts. If this necessitates varying from available zoning districts, the proposed development should demonstrate community benefits. A PUD should not be used to deviate from the provisions of this zoning ordinance in a way that contradicts its intent.
- (a.) Minimum district area. No PUD may be established on any area less than two (2) acres in size, unless good cause is demonstrated to allow for the consideration of a smaller PUD.
- (b.) Development standards. The applicant shall submit development standards which identify the regulations that will apply to the PUD.
 - (1.) Development standards for each PUD shall be set forth in an ordinance granting the PUD and may include, but shall not be limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, and other requirements as the city council may deem appropriate.
 - (2.) In the development standards, the particular district(s) to which uses specified in the PUD are most similar shall be stated. All requested deviations from the standard requirements set forth throughout this zoning ordinance shall be listed in the development standards.
 - (3.) The development standards shall include a statement as to the purpose and intent of the PUD granted therein. A specific list of deviations in each district or districts and a general statement citing the reason for the PUD request are required.
 - (4.) The PUD shall conform to all other sections of the zoning ordinance unless specifically exempted in the design standards.
 - (5.) Development Standards shall be prepared in accordance with the city's development manual
- (c.) Conceptual plan. The applicant shall submit a conceptual plan. The plan shall show the applicant's intent for the use of the land within the proposed PUD in a graphic manner and shall be supported by written documentation of proposals and development standards.
 - (1.) A conceptual plan for residential land use shall show at a minimum general use, thoroughfares, and preliminary lot arrangements. For residential development which does not propose platted lots, the conceptual plan shall set forth the size, type, and location of buildings and building

sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, and other pertinent development data.

(2.) A conceptual plan for uses other than residential uses shall set forth the land use proposals in a manner that adequately illustrates the type and nature of the proposed development. Data which may be submitted by the applicant, or required by the city manager or his/her designee or city council, may include, but is not limited to, the types of use(s), topography, and boundary of the planned development area, physical features of the site, existing streets, alleys, and easements, location of future public facilities, building heights and locations, parking ratios, and other information to adequately describe the proposed development and to provide data for approval which is used in drafting the final development plan.

(3.) Conceptual Plans shall be prepared in accordance with the city's development manual.

(d.) Amendments to PUD. The city manager or his/her designee may permit the applicant to make minor amendments to the conceptual plan without the necessity of amending the ordinance that established the PUD. If the proposed amendments change and/or impact the nature or purposes of the approved PUD, whether individually or cumulatively, the city manager or his/her designee may deny the request for approval of the modifications and provide the applicant with the opportunity to revise the proposed amendments to bring them into compliance with the PUD. All other amendments not deemed minor by the city manager or his/her designee shall be considered major amendments and will be processed in the same manner as a new PUD request, including a new zoning application with applicable fees. Minor amendments may include, but are not limited to:

- (1.) Corrections in spelling, distances, and other labeling that do not affect the overall development concept;
- (2.) Changes in building position or layout that are less than ten (10) feet or ten percent (10%) of the total building project or area;
- (3.) Changes in proposed property lines as long as the original total project acreage is not exceeded, and the area of any base zoning district is not changed by more than five percent (5%); and,
- (4.) Changes in parking layouts as long as the number of required spaces and general original design are maintained.

Section 24-36 to 24-40 Reserved

Article IV LAND USE

Section 24-41 Schedule of Uses

(a.) Permitted Principal Uses. No principal use shall be permitted in any district unless it appears in the following schedule of uses table:

X	Use is permitted in district indicated
S	Use is permitted in district indicated upon approval of a Specific Use Permit
	Use is prohibited in district indicated

SCHEDULE OF USES	Pre-Development District	Single Family Residential District	Garden Home Residential Districts	Two Family Residential District	Town House Residential District	Apartment/Multi-Family Residential District	Manufactured Home Residential District	Office and Professional District	Neighborhood Service District	General Business District	Light Industrial District	Medium Industrial District
SYMBOL	PD	R-1	R-2 A, B, C	R-3	R-4	R-5	R-6	B-1	B-2	B-3	I-1	I-2
X—Permitted S—Specific use permit		AGRICULTURE USES										
Agricultural field crops	X	X	X	X			X				X	X
Agricultural animal husbandry	X	X	X	X			X				X	X
Farm, ranch or orchard	X	X	X	X			X				X	X
X—Permitted S—Specific use permit		PRIMARY RESIDENTIAL USES										
One family dwelling detached	X	X	X	X			X	S	S	S		
One family dwelling attached (town house)					X			S	S	S	S	S
Two family dwelling				X	X			S	S	S		
Multi family dwelling (apartments)						X		S	S	S		
Garden home		S	X	S	S	S		S	S	S		
Manufactured home							X					
Boarding or rooming house						X		X		X		
Hotel								S	S	X		

Short term rental						X						
X—Permitted S—Specific use permit		ACCESSORY AND INCIDENTAL USES										
Accessory building residential	X	X	X	X	X	X	X	X	X	X	X	S
Accessory dwelling unit		X										
Farm accessory building	X	S	S				S				X	S
Mobile food vending (accessory use only)									S	S		
Home occupation	X	X	X	X	X	X	X	X	X	X		
Off-street parking incidental to main use	X	X	X	X	X	X	X	X	X	X	X	S
Ice making/water station									S	S	S	X
Social and recreational building	S	S	S	S	X	X	X	X	X		X	S
Swimming pool (private)	X	X	X	X	X	X	X	X	X	X	X	S
Temporary field or construction office	X	X	X	X	X	X	X	X	X	X	X	S
Temporary sales (parking lot vendors)								S	S	S	S	S
X—Permitted S—Specific use permit		INSTITUTIONAL AND SOCIAL SERVICE USES										
Airport, heliport or landing field	S									S	X	S
Church, Temple, Synagogue, Mosque or other place of worship	X	X	X	X	X	X	X	X	X	X	X	X
Civic center								X	X	X	X	
Day nursery/kindergarten	S	S	S	S	S	X	S	X	X	X		
Fraternity or sorority lodge or civic club (no alcohol)					X	X		X	X	X		

Home for alcoholic, narcotic or psychiatric patients						S		S		S		
Hospital (general acute care)						S		X	X	X		
Hospital (chronic care)						S		X	X	X		
Institutions of religious or philanthropic nature						S		X	X	X		
Library, art gallery, museum						X	X	X	X	X	X	S
Public administration offices								X	X	X	X	S
Residence home for aged					S	S		X	X	X		
Schools, private, college, university	S	S	S	S	S	X		X	X	X	X	S
Schools, public or parochial	S	S	S	S	S	X		X	X	X	X	S
X—Permitted S—Special use permit		UTILITIES AND RELATED SERVICE USES										
Electrical substation	S	S	S	S	S	S		S	S	S	X	S
Electric power generating plant											X	S
Fire station	S	S	S	S	S	S		X	X	X	X	S
Gas transmission and metering station	S	S	S	S	S	S	S	S	X	X	X	S
Local utility distribution lines	X	X	X	X	X	X	X	X	X	X	X	S
Radio, television or micro wave towers	S	S	S	S	S	S	S	S	S	X	X	S
Radio television transmitting station commercial								S		X	X	S
Sewerage pumping station	S	S	S	S	S	S	S	S	S	X	X	S
Sewerage treatment plant											S	S
Railroad tracks and right-of-way										S	S	S

Telephone business office								X	X	X	X	S
Telephone exchange switching/relay equipment	S	S	S	S	S	S	S	X	X	X	X	S
Utilities, public or private other than listed	S	S	S	S	S	S	S	S	S	X	X	S
Utility shops or storage, yards and buildings										X	X	S
Water treatment plant	S	S	S	S	S	S	S	S	S	X	S	
Water well, reservoir pumping station or storage	S	S	S	S	S	S	S	S	S	X	X	S
X—Permitted S—Specific use permit		ENTERTAINMENT AND RECREATIONAL USES										
Amusement, commercial outdoor-indoor	S								X	X	X	S
Country club	S	S	S	S	S	S	S	S	S	X	X	S
Drag strip	S										S	S
Game room											S	S
Fairgrounds	S									S	S	S
Park playground similar public site	X	X	X	X	X	X	X	X	X	X	X	S
Private club									S	S	S	X
Public recreation center	S	S	S	S	S	S	S	X	X	X	X	S
Private tennis/swim club	S	S	S	S	X	X	X	X	X	X	X	S
X—Permitted S—Specific use permit		AUTOMOBILE AND RELATED SERVICE USES										
Auto wash									X	X	X	S
Auto sales and repair (in building)									X	X	X	S
Auto sales, new and used car lot (open)									X	X	X	S
Auto painting and body shop										X	X	S

Convenience self-service stations									X	X	X	X
Primary petroleum product										X	X	S
Secondary petroleum product									X	X	X	S
Commercial parking lot or structure, auto								X	X	X	X	S
Sale, new auto parts in building										X	X	S
Seat cover or muffler installation shop										X	X	S
Tire retreading and capping											X	S
Wrecking or salvage yard for autos or parts												S
Recreation vehicle/boat/auto storage rental facility											X	X
X—Permitted S—Specific use permit		RETAIL AND BUSINESS SERVICES										
Antique shop								X	X	X	X	S
Art supply store								X	X	X	X	S
Animal clinic or pet hospital (no outside pens)									X	X	X	S
Bank or savings and loan office								X	X	X	X	S
Book and stationery store								X	X	X	X	S
Barber and beauty shop								X	X	X	X	S
Bakery/confectionery shop (retail sales)								X	X	X	X	S
Restaurant									X	X	X	S
Restaurant/refreshment stand (drive-through only)										S	X	S
Camera shop									X	X	X	S

Cleaning/laundry pick-up/ drop-off only location									X	X	X	S
Cleaning/laundry self service shop									X	X	X	S
Clinic, medical/dental								X	X	X	X	S
Drug store, pharmacy								X	X	X	X	S
Department store discount house										X	X	S
Grocery store									X	X	X	S
Furniture/appliance store										X	X	S
Florist shop								X	X	X	X	S
Garden shop and plant sales									X	X	X	S
Handcraft and art object sales								X	X	X	X	S
Hardware store									X	X	X	S
Hobby shop									X	X	X	S
Key shop									X	X	X	S
Laboratory, medical or dental										X	X	S
Liquor store									S	X	X	S
Medical appliances fitting and sales										X	X	S
Mortuary										X	X	S
Office/professional general business								X	X	X	X	S
Optical shop								X	X	X	X	S
Pawn shop										X	X	S
Pet shop-small animal, birds/fish	S								X	X	X	S
Personal custom services such as tailor, milliner, related									X	X	X	S
Tattoo parlor/ body-piercing studio											S	X

Retail shops, apparel accessories, gifts and similar items									X	X	X	S
Shoe repair									X	X	X	S
Smoke/Vape Shop (including CBD)											S	X
Smoke lounge											S	X
Studio, photographer, artist, music, drama dance									X	X	X	S
Studio, health, reducing or similar service									X	X	X	S
Studio, decorator and display of art objects								S	X	X	X	S
Tavern										X	X	S
Travel bureau or consultant								X	X	X	X	X
Veterinarian, office (no outside kennels)									X	X	X	S
Variety store										X	X	S
Duplicating-copy service									X	X		
Testing laboratory	S	S	S	S	S	S	S	S	S	S	S	S
Research laboratory	S	S	S	S	S	S	S	S	S	S	S	S
X—Permitted S—Specific use permit CC—		COMMERCIAL AND RELATED SERVICE USES										
Bakery, wholesale										X	X	S
Building material sales										X	X	S
Cabinet or upholstery shop										X	X	S
Clothing manufacturing similar light manufacturing process											X	S
Cleaning, dyeing/laundry plant commercial											X	S
Contractors storage/equipment yard										S	X	S

Dance hall/night club										X	X	S
Drive-in theater										X	X	S
Heavy machinery sale storage repair											X	S
Laboratory, manufacturing											X	S
Laboratory, scientific or research											S	S
Maintenance and repair service										X	X	S
Milk depot, dairy/ice cream plant											X	S
Open storage and sale of furniture, appliance and machinery											X	S
Paint shop										X	X	S
Plumbing shop										X	X	S
Railroad/bus passenger station									X	X	X	S
Storage warehouse (mini)									X	X	X	X
Storage warehouse (commercial)											X	S
Trade/commercial schools										X	X	S
Trailer and manufactured home sales or rental only										X	X	S
Transfer storage and baggage terminal											X	S
Veterinarian hospital/kennel (outside pens)											X	S
Welding or machine shops											X	S
Wholesale office storage sales										X	X	S
Recycling collection facility											S	S

Commercial radiology clinic									X	X	X	X
Medical appliances fitting and sales									X	X	X	X
Medical or Dental laboratory								S	S	X	X	X
X—Permitted S—Specific use permit		INDUSTRIAL AND RELATED USES										
Light manufacturing process											X	X
Any manufacturing process											S	S
Manufacturing, industrial storage or assembling process											S	S
Individualized manufacturing of medical equipment									X	X	X	
X—Permitted S—Specific use permit		USES PERMITTED BY SPECIAL USE PERMIT ONLY										
Asphalt or concrete batching plants											S	S
Storage of shell, soil sand and gravel											S	S
Commercial extraction of sand, soil, gravel											S	S
Sexually Oriented Business												S
Wrecking salvage yard											S	S
New and unscheduled uses	S	S	S	S	S	S	S	S	S	S	S	S

Section 24-42 Classification of new and unscheduled uses.

- (a.) It is recognized that new or unscheduled types of land use may seek to locate in the city. In order to provide for such contingencies, a determination of any new or unscheduled form of land use shall be made in accordance with this section.
- (b.) New or unscheduled land uses as determined by the city manager or his/her designee shall require a Special Use Permit as indicated on the Schedule of Uses chart.

- (c.) If a SUP is granted for a new or unscheduled use, at the earliest convenient opportunity, the city manager or his/her designee should initiate a zoning text amendment to incorporate the new or unscheduled use. The procedure for an amendment to the schedule of uses chart shall be the same as required for an amendment to the zoning text.

Section 24-43 to 24-45 Reserved

Article V ADDITIONAL STANDARDS FOR CERTAIN LAND USES

Section 24-46 Home occupations.

(a.) Purpose and intent.

- (1.) Protect residential areas from adverse impact of activities associated with home occupations.
- (2.) Permit residents of the community a reasonable choice in the use of their homes as a place of livelihood and the production or supplementing of personal and family income.
- (3.) Establish criteria and development standards for home occupations conducted in dwelling units

(b.) Home Occupations—Required Conditions.

- (1.) The area set aside for home occupations shall not exceed twenty percent (20%) of the total floor area of such residence.
- (2.) No interior or exterior business signs other than what is authorized in this ordinance.
- (3.) No mechanical equipment shall be used except of a type that is similar in character to that normally used for purely domestic or household mechanical equipment as for hobby purposes in conjunction with the home occupation.
- (4.) Retail sales shall be prohibited on the premises.
- (5.) The operation of retail sales, beauty culture schools, beauty parlors, barber shops, vehicle repair, lawn mower or other small or large engine repair, and any boarding house/rooming house shall not be permitted as a home-based business or as an accessory use.
- (6.) No more than one person other than the immediate family permanently residing on the premises shall be employed in the home occupation.
- (7.) A home occupation shall be carried on wholly within the principal building. No home occupation or any storage of goods, materials, or products connected with a home occupation shall be allowed in accessory buildings or garages, attached or detached, excluding paints and chemicals that may be used in the home occupation.
- (8.) There shall be no exterior indication of the home occupation or variation from the residential character of the principal building.
- (9.) No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of a home occupation shall be met off the street.
- (10.) There shall be no exterior storage of materials to be used in conjunction with a home occupation.

- (11.) A home occupation shall produce no offensive noise, vibration, smoke, electrical interferences, dust, odors, or heat detectable beyond the property limits or beyond the walls of the dwelling unit. The judgment of the city's code enforcement officer pertaining to a violation under this section shall be considered decisive and final unless formally appealed to the board of adjustment within thirty (30) days after the code enforcement officer's written determination.

Section 24-48 Temporary field or construction office

- (a.) Temporary buildings and temporary building material storage area to be used for construction purposes may be permitted for a specified period of time in accordance with a permit issued subject to periodic renewal by the Inspector for cause shown. Upon completion, abandonment of construction or expiration of permit, such field offices and buildings shall be removed within thirty (30) days, or at the direction of the building official.

Section 24-49 Location of sexually oriented businesses

- (a.) Definitions. The following definitions shall apply to this article:

- (1.) *Adult arcade* means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
- (2.) *Adult novelty store or adult video store* means a commercial establishment which as its principal business purpose offers for sale or rental for any form of consideration any one or more of the following:
- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions which depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - c. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (3.) *Adult cabaret* means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:
- a. Persons who appear in a state of nudity; or
 - b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - c. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

- (4.) *Adult motel* means a hotel, motel or similar commercial establishment which:
- a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
 - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - c. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.
- (5.) *Adult motion picture theater* means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproduction are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (6.) *Adult theater* means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas."
- (7.) *Chief of police* means the chief of police of the City of Live Oak or his/her designated agent.
- (8.) *Escort* means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (9.) *Escort agency* means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.
- (10.) *Establishment* means and includes any of the following:
- a. The opening or commencement of any sexually oriented business as a new business;
 - b. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - c. The addition of any sexually oriented business to any other existing sexually oriented business; or
 - d. The relocation of any sexually oriented business.
- (11.) *Nude model studio* means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
- (12.) *Nudity or a state of nudity* means:
- a. The appearance of a human bare buttock, anus, male genitals, female genitals, or areola of the female breasts.
 - b. A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breasts.

- (13.) *Person* means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- (14.) *Residential district* means a single-family, two-family, townhouse, multiple-family or manufactured home or trailer court included in the zoning districts R-1, R-2A, R-2B, R-2C, R-3, R-4, and R-5 of the Live Oak Zoning Ordinance.
- (15.) *Residential use* means a single-family, two-family, townhouse, multiple-family or "mobile home park, mobile home subdivision, or trailer court" used as included in the zoning districts R-1, R-2A, R-2B, R-2C, R-3, R-4, and R-5 or the Live Oak Zoning Ordinance.
- (16.) *Semi-nude* means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices.
- (17.) *Sexual encounter center* means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:
- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is semi-nude.
- (18.) *Sexually oriented business* means an adult arcade, adult novelty store, or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
- (19.) *Specified anatomical areas* means human genitals in a state of sexual arousal.
- (20.) *Specified sexual activities* means and includes any of the following:
- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - c. Masturbation, actual or simulated; or
 - d. Excretory functions as part of or in connection with any of the activities set forth in a. through c. above.
- (21.) *Substantial enlargement of a sexually oriented business* means the increase in floor area occupied by the business by more than twenty-five (25) percent, as the floor area existed on October 1, 1988.
- (22.) *Transfer of ownership or control of a sexually oriented business* means and includes any of the following:
- a. The sale, lease or sublease of the building;
 - b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
 - c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(b.) Location of sexually oriented businesses.

- (1.) A person commits an offense if he operates or causes to be operated a sexually oriented business within one thousand (1,000) feet of:
 - a. A church;
 - b. A public or private elementary or secondary school;
 - c. A public park adjacent to a residential district as defined in this ordinance; or
 - d. The property line of a lot devoted to a residential use as defined in this ordinance.
- (2.) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.
- (3.) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one (1) sexually oriented business in the same building, structure, or portion thereof, or the increase in floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
- (4.) For the purposes of subsection 1., measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a church or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.
- (5.) For purposes of subsection 2. of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- (6.) Any sexually oriented business lawfully operating on the effective date of this ordinance, that is in violation of subsections 1., 2., or 3. of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed three (3) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that if the sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and [the] later-established business(es) is nonconforming.
- (7.) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license as provided for in Live Oak Ordinance No. 841, of a church, public or private elementary or secondary school, public park, residential district, or residential lot within one thousand (1,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid license under said Ordinance No. 841, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

(c.) Exemption from local restrictions.

- (1.) If the chief of police denies the issuance of a license to an applicant because the location of the sexually oriented business establishment is in violation of subsection (b.) of this section of this ordinance, then the applicant may, not later than ten (10) calendar days after receiving notice of

the denial, file with the city secretary a request for an exemption from the locational restrictions of subsection (b).

- (2.) If the written request is filed with the city secretary within the ten-day limit, the Live Oak Board of Adjustment ("board") shall consider the request. The city secretary shall set a date for the hearing within sixty (60) days from the date the written request is received.
- (3.) The board shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.
- (4.) The board may, in its discretion, grant an exemption from the locational restrictions of subsection (b.) of this section if it makes the following findings:
 - a. That the location of the proposed sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;
 - b. That the granting of the exemption will not violate the spirit and intent of this chapter of the city Code;
 - c. That the location of the proposed sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and
 - d. That the location of the sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and
 - e. That all other applicable provisions of this ordinance and Ordinance No. 841 will be observed.
- (5.) The board shall grant the exemption by a three-fourths (3/4) vote of the entire board of adjustment. Failure by the applicant to obtain this number of votes shall result in a denial of the exemption. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the board is final.
- (6.) If the board grants the exemption, the exemption is valid for one (1) year from the date of the action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of subsection (b.) of this section until the applicant applies for and receives another exemption.
- (7.) If the board denies the exemption, the applicant may not re-apply for an exemption until at least twelve (12) months have elapsed since the date of the board's action.
- (8.) The grant of an exemption does not exempt the applicant from any other provisions of Ordinance No. 841 or this ordinance other than the locational restrictions of Section 2.

Section 24-50 Outdoor display and storage

- (a.) Outdoor display and temporary outdoor storage shall be allowed in non-residential districts in accordance with this section. Any merchandise, material or equipment situated outdoors in non-residential districts shall be subject to the requirements of this section. For the purpose of this section, outdoor storage and display shall be classified into three (3) categories enumerated as shown below.

(1.) Outdoor display and temporary storage. Outdoor display and temporary outdoor storage are displays of items actively for sale or lease that are lightweight and that individually can be easily moved without a mechanical lifting device.

- a. Outdoor display and temporary outdoor storage of goods in individual packaging and not in storage containers which are associated with the primary business on the site may be allowed adjacent to a front principal building wall and may not extend into the public right-of-way. Such storage shall not be permitted to block windows, entrances or exits, and shall not impair the ability of pedestrians to use the building.
- b. Areas intended for outdoor display must be paved and painted to distinguish them from required off-street parking areas. No outdoor displays shall be allowed in required off-street parking areas or fire lanes.

(2.) Seasonal outdoor display and storage. Seasonal outdoor display and storage is intended for the short term temporary display and storage of goods, normal in connection with a seasonal event

- a. Seasonal outdoor display and storage is allowed for a period not to exceed 90 days and a maximum of 2 seasonal display and storage events per calendar year.
- b. The temporary display and storage of goods shall not occupy more than 15% of the required off-street parking spaces.
- c. The temporary display and storage of goods may include the use of shipping containers but shall not include the use of trailers for storage.
- d. The temporary display and storage of goods shall not be located in fire lanes or other areas which impede the orderly flow of traffic through the site or create unsafe or hazardous conditions.
- e. Seasonal outdoor display and storage excludes sale of goods by temporary vendors unless granted by SUP as required by the Schedule of Uses.

(3.) General outdoor storage. General outdoor storage consists of all remaining forms of outdoor storage not classified as “outdoor display and temporary storage” or “seasonal outdoor display and storage” including items of a large size, mass or volume and that are not easily moved or carried such as used tires, railroad ties, discarded inventory, storage pallets, shipping containers, temporary portable storage facilities/containers and semi trailers not attached to a truck. General outdoor storage is only allowed in the B-3, I-1, and I-2 zoning districts.

- a. General outdoor storage is prohibited within the public right-of-way or fire lane.
- b. General outdoor storage shall not be allowed in required off-street parking spaces
- c. General outdoor storage items shall not exceed a maximum of 20 feet (20') in height.
- d. General outdoor storage items shall be completely enclosed or shall be moved to the rear of the structure, but in no event shall general outdoor storage items be visible from public right-of-way.

(b.) Outdoor display and storage requirements.

(1.) All outdoor display and storage areas must be clearly shown on the Site Plan submitted for the property.

(2.) Unless specifically authorized elsewhere in the city's ordinances, all outdoor display and storage areas shall be located outside the public right-of-way.

(c.) Exceptions.

(1.) Vehicles for sale as part of a properly permitted vehicle sales or rental use (including boats and manufactured housing) shall not be considered merchandise, material or equipment subject to the restrictions of this section.

a. Such vehicles must be located and displayed on a paved vehicle use area.

Section 24-51 Hotel

(a.) Hotels shall be constructed so that guest rooms are accessed through interior corridors.

Section 24-52 to 24-55 Reserved

Article VI DEVELOPMENT DESIGN STANDARDS

Section 24-56 Building design

(a.) Construction requirements.

(1.) Residential construction. All construction of single family homes, duplexes, and apartments upon completion must be of a building product or material approved for use by a national model code, published within the last three code cycles, applicable to the construction, renovation, maintenance, or other alteration of the building.

(2.) Commercial construction. New construction in commercial districts shall be of a building product or material approved for use by a national model code, published within the last three code cycles, applicable to the construction, renovation, maintenance, or other alteration of the building.

a. Air conditioning units and all mechanical equipment located on rooftops shall be screening from view. The minimum height of the screening shall be equal to the height of the tallest rooftop equipment or it shall be demonstrated that the rooftop equipment cannot be seen from public view.

Section 24-57 Screening and buffering

(a.) Screening of trash receptacles. All trash receptacles greater than one hundred (100) gallons shall be screened from public view and neighboring property view by a sight obscuring solid fence or wall enclosure with gates. The enclosure shall be a minimum of eight (8) feet in height. Gates shall be of a solid sight obscuring material and shall be closed at all times except when loading or unloading.

(b.) Screening and buffering between districts.

(1.) Commercial and multi-family buffer requirements.

a. A property zoned R-5, B-1, B-2, or B-3, being developed adjacent to a residentially zoned property shall provide one of the following:

- i. A privacy fence with a minimum height of eight (8) feet between the nonresidential or multifamily use and the residentially zoned property.
- ii. A minimum thirty foot (30') landscape buffer adjacent to the property line of the residential use or residentially zoned property. A minimum of one (1) shade tree shall be planted for each thirty linear feet (30') of landscape buffer. A minimum of ten (10) shrubs shall be planted for each fifty linear feet (50') of landscape buffer. All other areas within the landscape buffer shall be covered with grass or another solid vegetative cover. Existing preserved shade trees located within the landscape buffer may be credited toward the tree planting requirement.

(2.) Industrial buffer requirements.

- a. A property zoned I-1 or I-2 being developed adjacent to a residentially zoned property shall provide all of the following:
 - i. A privacy fence with a minimum height of eight (8) feet between the industrial use and the residentially zoned property.
 - ii. A minimum seventy-five foot (75') landscape buffer adjacent to the property line of the residential use or residentially zoned property. A minimum of one (1) shade tree shall be planted for each thirty linear feet (30') of landscape buffer. A minimum of ten (10) shrubs shall be planted for each fifty linear feet (50') of landscape buffer. All other areas within the landscape buffer shall be covered with grass or another solid vegetative cover. Existing preserved shade trees located within the landscape buffer may be credited toward the tree planting requirement.

(c.) Screening along major and secondary roadways.

(1.) Requirement criteria.

- a. Where subdivisions are platted so that the rear or side yards of single-family residential lots are adjacent to a major or secondary roadway, or are separated from a major or secondary roadway by an alley, the developer shall provide, at its sole expense, the following:
 - i. A minimum ten (10) foot landscape buffer adjacent to the major or secondary roadway. A minimum of one (1) shade tree shall be planted for each fifty (50) linear feet of buffer. All other areas within the landscape buffer shall be covered with a combination of landscape beds, shrubs, grasses or another solid vegetative cover. Existing preserved shade trees located within the landscape buffer may be credited toward the tree planting requirement.
 - ii. A minimum eight foot (8') tall screening fence.
 - iii. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s), including columns and decorative features.
 - iv. Any sections of this chapter or any other City ordinances, codes or regulations concerning sight obstructions of intersections shall be applicable to the screen where it is intersected by a right-of-way.

(d.) Screening of accessory equipment and appliances.

- (1.) Detached accessory equipment and appliances which are ancillary to the main use in commercial and industrial districts shall be located immediately adjacent to the principal building or shall be screened from public view.

(e.) Screening of loading docks and truck bays.

- (1.) Loading docks and truck bays shall be screened from public view and the right-of-way. Screening may consist of solid sight obscuring fences, berms, shrubs, trees, and other landscaping which creates a solid visual barrier. A combination of screening materials may be used.

Section 24-58 Landscaping

(a.) Purpose

The purpose of these regulations is to develop an ordinance regarding landscaping and tree preservation requirements within the boundaries of the city of live oak so as to maintain, to the greatest extent possible, existing trees and green spaces within the city and to facilitate the planting of additional trees and plant materials to accomplish the following objectives:

- (1.) To provide for tree preservation within the boundaries of the city and to establish requirements for the installation and maintenance of landscaping elements and other means of site improvements in off-street parking areas and other developed properties.
- (2.) To promote and protect the health, safety and welfare of the public by creating an urban environment that is aesthetically pleasing, one that promotes economic development through enhanced quality of life and encourages the preservation of trees and green spaces for the enjoyment of future generations.
- (3.) To preserve and maintain vegetative cover which will reduce soil erosion, reduce flooding, provide for shade, conserve energy and water resources and enhance the attractiveness of the community.
- (4.) To encourage the preservation of trees to provide health benefits by cleansing and cooling of the air and contributing to the psychological wellness of the community.
- (5.) To encourage the preservation of trees to provide economic benefits by adding value to property and reduction of energy costs through passive solar design utilizing trees and green spaces.
- (6.) To provide enhanced preservation standards and incentives that exceed published requirements to encourage the maximum preservation of trees and green spaces.
- (7.) To preserve trees as an important public resource that enhances the quality of life and maintains the unique character and the physical, historical and aesthetic environment of the city.

(b.) General requirements.

- (1.) Installation. All landscape materials shall be installed according to Texas Association of Nurserymen (TAN) Standards.
- (2.) Maintenance. The owner, manager or agent of the owner shall be responsible for the maintenance of all landscape areas.
- (3.) Irrigation. All landscaped areas in nonresidential and multi-family developments shall be irrigated an approved automatic underground irrigation system or alternative irrigation plan approved by the city manager or his/her designee. No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.

(4.) Planting criteria.

- a. Trees. Trees planted shall have a minimum DBH of two and one-half inches (2.5") caliper at time of planting. Trees should have an average crown greater than 15 feet at maturity.
- b. Lawn grass. Grass areas shall be planted in species normally grown as permanent lawns in the Bexar County area such as Bermuda, Zoysia, or Buffalo Grass.
- c. Shrubs, vines and ground cover. Shrubs, vines and ground cover planted pursuant to this chapter should be good, healthy nursery stock. Shrubs shall be a minimum of one-gallon container size at the time of planting.

(5.) Construction phase.

- a. No paving with concrete, asphalt, or other impervious material within the root protection zone (RPZ) of trees to be preserved shall be allowed without prior written approval of the city manager or his/her designee.
- b. Soil and other materials shall not be temporarily or permanently stored in locations, which should cause suffocation of root systems of trees to be preserved.

(6.) Removal of diseased or damaged trees.

- a. Upon direction from city management, property owners may be required to treat or remove trees suffering from transmittable diseases or pests or allow the city to do so, charging the actual cost thereof to the property owner.
- b. The city may not require the removal of trees except for the reason of disease, infestation, danger of falling, creation of a traffic hazard or the inability to properly and safely maintain public rights-of-way or easements.

(7.) All landscape design and planting shall take into consideration the importance of water conservation.

(8.) Native vegetation shall be preserved and protected in common open space areas to the greatest extent practical.

(c.) Minimum landscape installation requirements.

- (1.) A minimum percentage of the total lot area of property on which development, construction or reconstruction occurs after the effective date of this article shall be devoted to landscape development in accordance with the following schedule; provided, however, that this requirement shall not apply to the development, construction or reconstruction of single-family residential structures.

REQUIRED LANDSCAPING SCHEDULE

Land Use	Per Cent Landscaping Required
Apartments	20
Office and professional uses	15
Commercial/Retail/Business Use	10
Industrial or manufacturing	10

- (2.) The landscaping required by this article shall be placed upon that portion of the tract or lot that is being developed. Seventy-five (75) percent of the minimum amount of landscaping required by the section shall be installed in between the front and/or side property lines and the building constructed. Underdeveloped portions of a tract or lot shall not be considered landscaped.
- (3.) In addition to the requirements in subsections (a) and (b), any commercial or industrial use which has a side or rear yard contiguous to any noncommercial use shall be buffered (screened) as defined in existing subdivision or zoning regulations.
- (d.) Nonresidential and multi-family landscaping requirements.
- (1.) Landscaping Along Street Right-of-Way. All nonresidential uses in the B-1, B-2, B-3, I-1, and I-2 districts and multi-family uses in the R-5 district shall comply with the following streetscape requirements:
- a. Landscaped Edge. A minimum five foot (5') wide landscaped edge shall be provided adjacent to all streets, exclusive of street right-of-way.
 - i. Within the landscaped edge, shade trees (2.5" caliper minimum) shall be planted at a ratio of one (1) tree per fifty (50) linear feet of landscaped edge. The grouping or clustering of trees to accommodate driveway spacing, utilities, drainage facilities, or similar site features is permitted.
 - b. Vehicle headlight screening abutting the landscape edge. Where parking lots, drives, and access easements abut the landscaped edge, shrubs shall be planted to form a contiguous three (3) feet tall buffer along the common boundary line.
 - i. Shrubs shall be planted in planting beds.
 - ii. A berm may be placed within the landscaped edge in lieu of the required shrubs or combination of berm and shrubs.
 - iii. The slope of the berm shall not exceed a 33 percent grade.
 - c. Parking area landscaping. Parking lots, vehicular use areas and parked vehicles are to be effectively screened from the public view and right-of-way. Both the interior and perimeter of such areas shall be landscaped in accordance with the following criteria. Areas used for parking or vehicle storage that are under, on, or within buildings are exempt from these standards.
 - i. Interior areas of parking lots shall contain planting islands located so as to best relieve the expanse of paving. Planter islands must be located no further apart than every fifteen (15) parking spaces and at the terminus of all rows of parking. Such islands shall be a minimum of 162 square feet or nine feet (9') by eighteen feet (18') in size.
 - ii. Planter islands shall contain at least one (tree) and a combination shrubs, lawn, ground cover and other appropriate materials provided such landscaping does not cause visual interference within the parking area.
 - d. Site trees. Shade trees shall be provided at a ratio of nine (9) shade trees (2.5" caliper minimum) per gross acre. Required tree plantings (such as landscape edge or parking lot) may be counted toward meeting this requirement. Existing preserved trees may also be counted toward meeting this requirement. Industrial uses in the I-1 and I-2 districts shall provide shade trees at a ratio of six (6) shade trees per acre.

(e.) Residential landscaping requirements.

(1.) Residential landscaping requirements. All residential uses in the R-1, R-2A, R-2B, R-2C, R-3, R-4 and R-6 districts shall comply with the following landscape requirements:

- a. Two shade trees or ornamental trees shall be provided in residential subdivisions for each lot.
- b. All required trees must be planted prior to request for final building inspection of the dwelling unit.

(f.) Approved landscaping plant lists.

(1.) Approved shade tree plant list. The following list contains approved shade trees:

Shade Tree List	
Common Name	Scientific Name
Anaqua	Ehretia anacua
Ebony, Texas	Pithecellobium flexicaule
Cypress, Arizona	Cupressus arizonica
Cypress, Montezuma	Taxodium mucronatum
Elm, Cedar	Ulmus crassifolia
Maple, Uvalde Bigtooth	Acer grandidentatum
Oak, Bur	Quercus macrocarpa
Oak, Chinkapin	Quercus muehlenbergi
Oak, Lacey	Quercus laceyi
Oak, Live	Quercus virginiana var. fusiformis
Oak, Mexican White Live	Quercus polymorpha
Oak, Texas Red	Quercus buckleyi
Pecan	Carya illinoensis
Sycamore, Mexican	Platanus mexicana
Walnut, Texas	Juglans microcarpa

Section 24-59 Tree preservation and mitigation requirements

(a.) Purpose and intent.

- (1.) The purpose of this section is to conserve, protect and enhance existing healthy trees and natural landscape. It is recognized that the preservation of existing trees contributes to the overall quality and environment of the city. Trees can and do contribute to the processes of

purification, oxygenation, regeneration, groundwater recharge, reduction of pollution and contaminants in aquifers, erosion and dust control, abatement of noise, provision of wildlife habitat and enhancement property values. Indiscriminate clearing or stripping of natural vegetation on any parcel is prohibited.

- (2.) It is hereby declared the intent of the city to encourage the preservation of all trees within the city. While the layout of a property with respect to the placement of buildings, parking facilities and other site requirements is at the discretion of the developer of the property, it is the policy of the city to promote site layout and design in a manner which preserves the maximum amount of protected class and heritage class trees possible.

(b.) Applicability.

- (1.) This article applies to all property within the city limits for all activities that result or may result in the removal of protected class or heritage class tree(s) as defined herein. Said activities include any of the following conducted on property to which this regulation applies:

- a. All new residential and nonresidential development within the city;
- b. Redevelopment of any residential or nonresidential property within the City that results in an increase in the building footprint or the total destruction and reconstruction;
- c. Any grading, filling or clearing of land in the city limits; and
- d. Any selective or individual removal of any protected class or heritage class tree in the city limits.

- (2.) The directives in this article shall not apply to the clearing of understory necessary to perform boundary surveying of real property or the clearing of underbrush required to conduct tree surveys or inventories. Clearing for surveying may not exceed a width of two feet for general survey (i.e. of easement boundary, etc.) and eight feet for survey of property boundary lines. No trees six (6) inches or larger in diameter may be removed in any manner during such boundary or general surveying.

(c.) Definitions.

The following terms shall have the meaning hereinafter ascribed to them under this article:

Arborist means an individual certified as an arborist by the International Society of Arboriculture.

Circumference means the perimeter or boundary of a circle.

DBH means the diameter at breast height is a standard measure of expressing the diameter of the trunk or bole of a standing tree. DBH is measured at a height of 1.4 meters (4.59 feet) for other than ornamental trees, which are usually measured at 1.5 meters (4.92 feet) above ground.

Diameter means a straight line, which passes through the center of a circle or sphere and stops at the circumference or surface. A measurement of distance.

Field inspector means any individual that is selected by the administrative staff of the city to accompany an arborist, or qualified individual that represents a development company, into the area where development is planned. This field inspector will be provided a plan that identifies the proposed area that is to be developed. The field inspector will be responsible to verify location of trees, conditions, size and number and will indicate his/her annotation on the site plan provided to the planning and zoning commission before any trees of any type will be physically removed from the area. No permit will be issued unless this fieldwork has been accomplished by the field inspector.

Footprint means an area that is covered by a permanent enclosed or covered structure. Note: A driveway and parking facilities are not included as structures.

Grade changes mean changes in the elevation of the land around an existing tree that would create exposure of the root system to the air and reduces the supply of nutrients and moisture available to the roots.

Heritage class tree means any tree that is twenty-four (24) inches or greater in diameter and not exempted by this article.

Landscape architect means an individual currently registered with the Texas Board of Architectural Examiners to practice landscape architecture in the State of Texas.

Mitigation means to discuss and arrive at a conclusion that will cause alleviation, abatement or dimension of anything that could be considered a penalty.

Pervious means the ability of a substance to allow the passage of water.

Protected class tree means any tree that is between six (6) inches and twenty-four (24) inches in diameter and not exempted by this article.

Ratio of replacement means protected trees are to be replaced at a ratio of one inch to one inch and heritage trees are to be replaced at a ratio of three inches for every one inch removed.

RPZ means root protection zone. An eight-foot diameter no-paving zone encompassing the trunk of any protected or heritage class tree.

Shall. The word "shall" is mandatory rather than used in a directory manner.

Street yard means the area of a lot which lies between the property line along a dedicated street and the actual wall line of the building or, if no building exists, to the rear property line.

Tree means any self-supporting woody plant species, which normally grows to an overall minimum height of 15 feet.

Tree inventory means the amount that summarizes total number of diameter inches of a tree that will be removed or will be preserved.

(d.) Exempted trees.

- (1.) The following are exempt from the preservation, mitigation and permitting requirements of this section:
 - a. Protected class trees located within the area of a proposed on-site sewage facility (OSSF) (a waiver to mitigation for heritage class trees may be requested).
 - b. Protected class and heritage class trees located within a right-of-way to be dedicated to and maintained by the city and shown on the city's Master Thoroughfare Plan.
 - c. Protected class trees located within any required utility easement. Heritage class trees located within any utility easement are exempt from preservation requirements only (A waiver to mitigation for heritage class trees may be requested).
 - d. Protected class and heritage class trees damaged or destroyed by floods, fire, wind or other natural causes.

- e. Dangerous, diseased, damaged, dead or dying protected class or heritage class trees as determined by a tree survey and a letter from a certified Texas Arborist. All expenses/fees for arborist certification will be borne by the developer/owner.
 - f. Protected Class and Heritage Class trees located on property that has an existing one family or two-family dwelling that is occupied.
- (2.) Exempted trees. The following species of trees are exempted from preservation and mitigation in this article and may be removed without penalty upon issuance of a permit:
- a. Arizona ash,
 - b. Chinaberry,
 - c. Chinese tallow,
 - d. Cottonwood,
 - e. Hackberry,
 - f. Huisache,
 - g. Juniper (cedar),
 - h. Mesquite,
 - i. Mulberry trees,
 - j. Additionally, trees classified as "trash trees" by the incumbent Bexar County Extension Agent-Horticulture may be exempted and removed without penalty upon proof of such classification.

(e.) Tree preservation.

- (1.) Tree preservation. The existing natural landscape character, especially native oaks, elms, and pecan trees, shall be preserved to the maximum extent reasonable and feasible. Except as otherwise exempted in this article, a tree preservation removal permit is required for the removal of any tree with a DBH greater than six (6) inches. A minimum of all protected class and/or heritage class trees within the surveyed area must be preserved as follows:
- a. Protected class and heritage class trees. Any protected class or heritage class tree not exempt from preservation and mitigation by this article may be removed upon approval of a tree preservation removal permit.
 - b. Minimum preservation. A minimum of fifteen (15) percent of all non-exempt protected class and heritage class trees on the site must be preserved. A waiver to this requirement may be requested.
 - i. All percentages and measurements relating to preservation will be based on the initial tree survey. Any subsequent redevelopment of property must minimally preserve the applicable percentage of total diameter inches protected and/or heritage trees as recorded in the initial tree survey.

(f.) Tree mitigation.

- (1.) Tree mitigation. Any trees that are removed or damaged as a result of the approval of a tree preservation removal permit shall be mitigated for on the same site as the proposed development. The species of trees planted for mitigation purposes may not include those listed

as species exempt in this article. In the event that mitigation is not feasible on the same site as the proposed development, an applicant may request to donate trees, meeting the mitigation requirements of this section, to be planted at public parks, schools, or other approved public facilities throughout the city or provide a fee-in-lieu payment in accordance with the city's fee schedule. Mitigation requirements are:

- a. Protected Class Trees. Up to twenty (20) percent of the non-exempt protected class trees on the site may be removed without mitigation. Protected trees removed after the first twenty (20) percent shall be mitigated at a one-to-one (1:1) DBH inch ratio for every tree removed with the exception that . Replacement shade trees shall have a minimum DBH of two and one half inches (2.5").
- b. Heritage Class Trees. Heritage Class trees shall be mitigated at a two-to-one (2:1) DBH inch ratio for every tree removed. Replacement shade trees shall have a minimum DBH of two and one half inches (2.5").
- c. Damaged Trees. Any trees that are designated for preservation and are damaged during the construction process or that die within two (2) years of issuance of a certificate of occupancy shall be mitigated for in accordance with this section.
- d. Mitigated Trees. Trees planted and counted towards the necessary mitigation requirements that are damaged after planting or that die within two (2) years of issuance of a certificate of occupancy shall be mitigated for at a one-to-one (1:1) DBH inch ratio for every tree damaged or that dies.

(g.) Size and replacement.

(1.) All trees planted for mitigation purposes must meet the following requirements:

- a. No artificial plant material may be used to satisfy tree replacement requirements.
- b. Plant materials must comply with the following planting area requirements at the time of installation:
 - i. In satisfying this requirement the use of mulch material shall be provided at the time of planting.
 - ii. Each replacement tree must be planted at least 30 inches away from any impervious surface.
 - iii. Plant areas must be protected from vehicular traffic through the use of concrete curbs, wheel stops or other permanent barriers.
 - iv. Replacement shade trees, with the exception of Live Oak trees, required by this article shall be of like or better quality and must be of a species of shade trees identified in Section 24-30. Live Oak trees being mitigated by replanting must be replaced with Live Oak trees.
 - v. Replacement shade trees must have a minimum diameter of two and one-half (2.5) inches DBH measured at the time of installation, and shall be planted in a pervious area of at least 50 square feet.
- c. Trees shall meet the requirements for installation of new trees according to Texas Association of Nurserymen (TAN) standards.

- d. It shall be the responsibility of the developer to guarantee for a period of two years that all trees planted will have a survival term of life. If a planted tree should die before the two-year period, then it shall be replaced by a like kind or a better value class of tree.

(h.) Tree preservation removal permit.

- (1.) Permit required. A tree removal permit is required for the removal of any protected class or heritage class trees not exempted in this article. Permits shall be required prior to commencement of any regulated activity.
 - a. A tree affidavit will be required when there is no heritage or protected trees in the proposed development. No tree preservation plan or removal permit will be required in this instance.
 - b. An understory clearing permit may be applied for in certain instances to remove underbrush and trees less than three inches in diameter. This permit is intended only to facilitate the surveying of heritage and protected trees on heavily overgrown sites.
 - c. All sites containing heritage or protected trees will require a tree preservation removal permit
- (2.) Application. An application and tree preservation plan will be required prior to issuance of a tree preservation removal permit. The applicant shall agree not to remove or replace any trees except as authorized by an understory clearing permit until final approval has been granted by the city manager or his/her designee. The applicant shall be responsible to render three sets of site plans for tree inventory and survey. All plans shall be provided by the developer and shall be paid for by the developer. No cost shall be incurred by the city. The tree preservation plan must contain the following data:
 - a. Location of property lines, easements, setbacks, and landscape buffers and rights-of-ways.
 - b. Proposed development information including location of buildings, sidewalks, dumpsters, paving, carports, curbs, light poles, etc.
 - c. Existing and proposed topography. Contour intervals not to exceed one foot.
 - d. Scale, North arrow and location map.
 - e. Location, diameter and species of all protected and heritage trees. Each tree is to be assigned a number for identification purposes.
 - f. Location, diameter and species of any mitigation trees.
 - g. Tree inventory that summarizes total number of diameter inches existing on-site, to be removed, to be preserved and to be used for mitigation. The tree inventory must specifically identify what will happen to each protected and heritage tree at the site.
- (3.) Processing of application and decision.
 - a. Submittal. An application for a tree preservation removal permit shall be submitted to the city manager or his/her designee. The city manager or his/her designee shall review the application for completeness. The city manager or his/her designee may request a review and recommendation from any other city department or consultant.
 - b. Decision by city manager or his/her designee. The city manager or his/her designee may approve, approve with conditions, or deny the waiver request.

- (4.) Criteria for approval. The city manager or his/her designee, in considering action on a tree preservation removal permit waiver should consider the following criteria:
 - a. The proposed tree preservation removal permit is consistent with all city requirement.
- (5.) Payment of fees. The applicant shall pay any required permit fees and mitigation fee-in-lieu before and approved permit will be issued.
- (6.) Inspections. The city shall inspect each site prior to the issuance of a certificate of occupancy.
- (7.) Appeals. Any decision of the city manager or his/her designee regarding tree preservation removal permits may be appealed to the planning and zoning commission. When considering an appeal, the planning and zoning commission shall consider the same standards as the city manager or his/her designee as outlined above.

(i.) Tree waivers.

- (1.) General. The planning and zoning commission may authorize waivers from the provisions of this Article when, in their opinion, undue hardship will result from requiring strict compliance. Waivers may be granted only to items specifically stated in this article. Waivers must meet one of the following eligibility requirements:
 - a. The tree is proposed for removal in order for the property to achieve compliance with other applicable city requirements and standards (i.e. site design or storm water management); or
 - b. The tree is proposed for removal because it is within a future public utility location.
 - c. In cases where retention of natural or existing trees in open space, setback, buffer areas or drainage ways could create unusual development problems, planted trees may be required in lieu of preservation.
- (2.) Application requirements. Any request for a waiver shall be accompanied by an application prepared in accordance with the city's development manual.
- (3.) Processing of application and decision
 - a. Submittal. An application for a waiver compliance shall be submitted to the city manager or his/her designee. The city manager or his/her designee shall review the application for completeness. The city manager or his/her designee may request a review and recommendation from any other city department or consultant. After appropriate review, the city manager or his/her designee shall forward a written recommendation to the planning and zoning commission for consideration.
 - b. Decision by planning and zoning commission. The planning and zoning commission shall receive the written recommendation of the city manager or his/her designee and shall consider the proposed waiver request. The planning and zoning commission may vote to approve, approve with conditions, or deny the waiver request.
- (4.) Criteria for approval. Waivers shall be evaluated using the following criteria:
 - a. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees or windbreaks;
 - b. The granting of a waiver will not be detrimental to adjoining property or health, safety, and welfare of the general public.

- c. The requested waiver does not violate the intent of this article or other applicable city requirements;
 - d. Strict interpretation of the provisions of the section would deprive the applicant of rights commonly enjoyed by other nearby properties in the same zoning district or with the same land use that would comply with the same provisions;
 - e. A reasonable effort to preserve the tree has been made and reasonable alternatives have been evaluated and determined to not be feasible.
 - f. Financial hardship due to meeting the requirements of this article is not alone sufficient to grant a waiver.
- (5.) Expiration. Approved waiver requests shall expire 12 months after approval if a subsequent application for development (such as a building permit) has not been filed with the city.
- (6.) Limitations. The planning and zoning commission shall not authorize a waiver request that would constitute a violation of a valid law, ordinance, code or regulation of the City.
- (7.) Appeals. Any decision of the planning and zoning commission regarding waiver requests may be appealed to the city council. When considering an appeal, the city council shall consider the same standards as the planning and zoning commission as outlined above.
- (j.) Tree preservation and mitigation account established.
- (1.) The city shall reserve all fee-in-lieu of payments and any accrued interest from the fee-in-lieu of tree mitigation in a separate account from the general funds of the city. This account shall be known as the tree preservation and mitigation account.
 - (2.) The city shall deposit sums collected as cash payments-in-lieu of tree mitigation in the tree preservation and mitigation account.
 - (3.) The city shall maintain records detailing the receipts and expenditures for the tree preservation and mitigation account. All funds deposited as credit for fee-in-lieu of tree mitigation may be used to place trees at public parks, schools, or other approved public facilities throughout the city. Tree preservation and mitigation account funds may also be utilized to install irrigation, to repair or remove damaged or destroyed trees, to preserve and protect existing protected class and heritage class trees and to purchase equipment for the preservation or protection of existing trees.

Section 24-60 to 24-65 Reserved

Article VII PARKING REGULATIONS

Section 24-66 Purpose.

- (a.) It is the purpose of this section to establish the guidelines for off-street parking space consistent with the proposed land use to:
- (1.) Eliminate occurrence of non-resident on-street parking in adjoining neighborhood;
 - (2.) Avoid the traffic congestion and public safety hazards caused by a failure to provide such parking space; and

- (3.) Expedite the movement of traffic on public thoroughfares in a safe manner, increase the carrying capacity of the streets, reduce the amount of land required for streets, and the cost to both the property owner and the city.

Section 24-67 General provisions.

(a.) Size of parking space.

- (1.) Each standard off-street surface parking space shall measure not less than nine (9) feet by eighteen (18) feet, exclusive of access drives and aisles, and shall be of usable shape and condition.
- (2.) Wheel stops. Wheel stops shall be required for all areas of head-in parking adjacent to a landscaped areas and sidewalks. Wheel stops shall be designed so that the overhang of vehicles is contained totally within the parking space. If wheel stops are not provided at locations where vehicles extend over the sidewalk areas, a minimum of five (5) feet of free walking area, exclusive of vehicle overhang, width must be provided.
- (3.) Each parking space designed for parallel parking shall have a minimum dimension of eight feet by twenty-two feet (8' x 22').
- (4.) Each standard parking space located in a parking garage shall measure not less than nine feet by eighteen feet (9' x 18'), exclusive of access drives or aisles.
- (5.) Handicap accessible parking. The number, size, and location of the handicap parking spaces required must follow the Federal Americans with Disabilities Act and Texas Accessibility Standards.
 - a. Handicap parking spaces count toward total required parking spaces.
- (6.) Electric Vehicle Charging. Electric vehicle charging spaces may be provided and count toward total required parking spaces provided they meet the minimum parking space sizes listed above.

(b.) Determining the number of parking spaces. In computing the number of such parking spaces required, the following rules shall govern:

- (1.) The number of off-street parking spaces required shall be determined from the Schedule of Off-street Parking Requirements table.
- (2.) "Floor area" shall mean the gross floor area of the specific use.
- (3.) Where fractional spaces result, the parking spaces required shall be rounded up to the next whole number.
- (4.) Whenever a building or use constructed or established after the effective date of this ordinance is changed or enlarged in floor area, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged in floor area or in the area used, said improvement or use shall then and thereafter comply with the parking requirements set forth herein.
- (5.) Mixed uses. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately. In such cases where it can be shown that the peak parking demands are offset, for example with retail and residential, or theater and

office uses the city manager or his/her designee may reduce the total requirements accordingly, but not more than twenty-five percent (25%) of the overall combined parking requirement.

- (6.) Joint use. Required parking facilities of two (2) or more uses may be satisfied by the same parking facility used jointly, to the extent that it can be shown by the owners or operators that the need for the facilities does not materially overlap and provided that such right of joint use is evidenced by a deed, lease, contract, or similar written instrument establishing the joint use.
- (c.) Location of parking spaces. All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located not to exceed three hundred (300) feet from an institutional building served and not to exceed five hundred (500) feet from any other non-residential building served.
- (1.) Up to one hundred (100) percent of the parking spaces required for a church or church school auditorium, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours; provided, however, that such right of joint use is evidenced by a deed, lease, contract, or similar written instrument establishing the joint use.
- (2.) In any cases where the required parking spaces are not located on the same lot or contiguous with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for purposes, shall be properly drawn and executed by the parties concerned, approved as to form by the city attorney and shall be filed with the application for a building permit.
- (3.) Parking spaces provided in enclosed garages for residential uses shall not count towards satisfying the required off-street.
- (d.) Development and maintenance of parking area. Every parcel of land hereafter used as public parking area, including but not limited to commercial parking lots, automobile, farm equipment, manufactured home, trailer, or other open-air sales lot, shall be developed and maintained in accordance with the following requirements:
- (1.) Surfacing: Except as otherwise provided, all off-street parking areas shall be all-weather surfaces, shall be installed, graded to drain, and maintained so as to dispose of surface water accumulated within the area, for all parking areas for more than five (5) vehicles. Parking spaces shall be so arranged and marked as to provide for orderly and safe parking of vehicles. Surfaces shall be subject to approval by the city engineer.
- (2.) Lighting: Any lighting used to illuminate an off-street parking area shall be arranged so as to direct or shield the light away from the adjoining premises in any residential district.

Section 24-68 Off-street parking requirements.

- (a.) Off-street parking shall be provided in sufficient quantities to provide the following ratio of vehicle spaces for the uses specified:

Schedule of Off-Street Parking Requirements

Type of Generator	Unit	Minimum No. of Spaces Per Unit
One and two family dwellings	Dwelling	2
Manufactured home	Dwelling	2
Townhouses	Dwelling	2.5*
Multi family dwelling	Dwelling	2
Rooming or boarding houses	Sleeping rooms	1/2
Fraternity or sorority	Beds	1/4
Private club or lodge	Members	1/5
Church, Temple, Synagogue, Mosque or other place of worship	Seat / square feet	1 space for each 4 seats or 1 space for every 100 square feet of gross floor area, whichever is less (based on maximum design capacity)
School (except high school or college)		
Seats in auditorium	Seat	1/10
Seats in classroom	Classroom	3
College or high school		
Seats in auditorium	Seat	1/8
Seats in classroom	Classroom	3
Country club or golf club	Members	1/5
Community center, library, museum, or art gallery	Square feet	1/300
Hospital	Beds	1/2
Sanatorium, convalescent home, home for the aged, or similar institutions	Beds	1/4
Theater or Auditorium (except school)	Seats	1/4
Sports arena, stadium, or gymnasium	Seats	1/5
Hotel	Sleeping rooms	1
Dance hall, assembly or exhibit hall	Seat/ Square feet	1 space for each 4 seats or 1 space for every 100 square feet of gross floor area, whichever is less (based on maximum design capacity)
Business or professional office, studio bank, medical or dental clinic	Square feet	1/250
Bowling Alley	Alley	4

Mortuary or Funeral Home	Seats	1/4
Restaurant, night club cafe, or similar recreation or amusement establishment	Seat	1/3
Retail store or personal service establishment	Square feet	1/300
Printing or plumbing shop or similar service establishment	Square feet	1/300
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse, or similar establishment	Square feet	1/2000
Garden shop/plant sales facilities:		
Main building	Square feet	1/200
Storage/display area	Square feet	1/800

*One (1) of the two and one-half (2.5) minimum required spaces per dwelling may be provided as on-street or common area parking when the townhome development is designed with on-street or common area parking.

(b.) New and unscheduled uses. When a proposed land use is not classified in this section or a single use which have varying parking needs depending on the function of that specific single use, an applicant may submit a parking ratio based on best/current planning and transportation practices.

(1.) A best/current parking ratio application should include the following:

- a. An application shall fully cite the sources used to derive the applicant-submitted parking ratio, possible resources include parking standards material from the Institute of Transportation Engineers (ITE) or the American Planning Association (APA).
- b. The city manager or his/her designee shall review the applicant submitted parking ratio to confirm best/current planning practices for a use.
- c. The city manager or his/her designee shall approve, modify, or deny the applicant submitted parking ratio.

(2.) Parking ratio determination where no application is submitted.

- a. If the applicant does not submit a parking ratio, then the city manager or his/her designee shall determine the parking ratio based on the best/current planning and transportation practices.

Section 24-69 Loading and queueing requirements.

(a.) Off-street loading regulations. Every building or part thereof erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary, or any other use similarly involving the receipt or distribution by vehicles of materials or merchandise, shall provide and maintain on the same premise, loading space in accordance with the following regulations:

- (1.) In the B-1, B-2, and B-3 districts, one loading space for the first five thousand (5,000) to fifteen thousand (15,000) square feet of floor area in the building and one additional loading space for each fifteen thousand (15,000) square feet, or fraction thereof, of floor area in excess of fifteen thousand (15,000) square feet.

(2.) In the I-1 & I-2 industrial districts, one loading space for each ten thousand (10,000) square feet or fraction thereof, of floor area in the building.

(3.) No more than three (3) off-street loading spaces shall be required for any neighborhood service or general business use, nor more than five (5) off-street spaces for any industrial use.

(b.) Stacking and queueing regulations.

(1.) The following is required for drive-through facilities:

- a. A stacking space shall be an area on a site measuring eight feet by twenty feet (8' x 20') with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other circulation driveway, parking space, or maneuvering area.
- b. All stacking spaces shall be located entirely within the lot and shall be outside of any right-of-way, fire lane or similar access.
- c. For financial institutions with drive-through facilities, each teller window or station, human or mechanical, shall be provided with a minimum of four (4) stacking spaces.
- d. For each service window of a drive-through restaurant, a minimum of six (6) stacking spaces shall be provided.
- e. For drive-through kiosks and other self-service style stations, a minimum of three (3) stacking spaces for each service window or station shall be provided.

(c.) The following is required for schools, day nurseries, and other similar uses that utilize vehicle queueing for student or customer pick up and drop off:

- (1.) provide adequate stacking for vehicles based on a parking study approved by city manager or his/her designee ensuring that vehicles will not queue into the right-of-way and maintain safe vehicle circulation which provides adequate access to the site for emergency services.

Section 24-70 Carports.

(a.) Carports are a permitted encroachment in the front-yard setback in the following Residential Districts: R-1; R-2A; R-2B; R-2C and R-3, provided such carports comply with the following:

- (1.) Each resident within the City intending to construct a carport must obtain a permit with the Development Services Department.
- (2.) The Development Services Department may issue the permit if the applicant presents construction or design plans that meet all the following requirements:
 - a. A one story standard structure extension as a carport is allowed to extend into the front set back of the residential structure.
 - b. Carports may only be constructed material approved for use by a national model code, published within the last three code cycles, applicable to the construction, renovation, maintenance, or other alteration of the carport. All materials must meet the manufacturer's approved specifications.
 - c. The carport shall have three open sides, no walls allowed.
 - d. A carport may extend into the front setback of a residential structure not closer than five (5) feet from the front property line (which is generally 15 feet from the curb).

- e. All carports must comply with all building codes and all other codes adopted by the City of Live Oak, as amended.
 - f. The carport shall not exceed twenty (20) feet in width and have a maximum, interior height clearance of ten (10) feet. In the event special construction circumstances exist and compliance is unattainable, the building official shall address the issue and ensure compliance with the city's building standards.
 - g. At any time that the materials of the carport is showing wear or is damaged to the extent that it will allow for the elements to enter, it must be replaced at the expense of the owner.
 - h. If the property is located in a homeowner's association, and there are restrictive covenants in place that provide restrictions for those properties, the owner is required to provide a signed affidavit stating that proposed carport meets these restrictive covenants.
- (3.) Any request with deviations from these Standards, Regulations and Guidelines are required file for a variance and proceed to the Board of Adjustment.

Section 24-71 to 24-75 Reserved

Article VIII SIGNS

Section 24-76 Purpose.

The regulations enacted in this ordinance are to promote the health, safety and general welfare of the city; and also provide in each area standards which promote a positive city image reflecting order, harmony and pride, thereby strengthening the economic stability in Live Oak business, residential and cultural areas.

Section 24-77 Objectives.

- (a.) The objectives of this article are to pursue application of specific standards as follows:
- (1.) To ensure safe sign construction.
 - (2.) To prevent the construction of signs that would restrict the sight distance or confuse vehicle operators and or pedestrians to proceed in a safe manner.
 - (3.) To prevent the obstruction of streets, alleys and other public places by signs.
 - (4.) To provide for the orderly installation and construction of signs without creating confusion, unsightliness, or visual obscurity of adjacent buildings or businesses.
 - (5.) To assure that all signs in terms of brightness, size, scale, height and location are properly related to the overall adjacent land use characteristics and development lot size.
 - (6.) To assure all signs, the supports and bases are, in terms of color, form, material and design, compatible with other structural forms on development lots and adjacent areas.
 - (7.) To assure, by permit and inspection, the construction of safe signs thereby preventing obstruction of streets, alleys or public places and not unduly restricting the sight or safety of vehicle operators and pedestrians.

Section 24-78 General provisions.

- (a.) A sign permit shall be obtained prior to placement or erection of any sign not exempted herein.
- (b.) All signs, where applicable, shall meet the standards of the city building code.
- (c.) Except as herein provided, no person or business firm, acting either as principal or agent, shall alter the copy face or lettering of any sign, (except for signs with temporary messages made from interchangeable characters attached to tracks or grooves on the sign board) either by changing the message or by renovating an existing message or shall erect any sign or sign structure until a sign permit for such work has been issued by the appropriate staff official.
- (d.) No sign, sign structure, or sign support shall project over any property line or into a public right-of-way except that a sign placed flat against the wall of a building which is on the property line may project eighteen (18) inches beyond the property line over public property.
- (e.) Trees, rocks, bridges, fences, towers, utility poles and dilapidated buildings shall not be used as sign supports.
- (f.) Business locations shall be identified by a street number attached to the building and must be clearly visible from the street. The characters will be a minimum of six (6) inches. Shopping malls and centers having a common address are exempt; however, the main sign for the mall or center must display the full street address.
- (g.) All residences shall be identified by a street number attached to the building and clearly visible from the street. Characters shall be a minimum of three (3) inches. Residences may also display a yard sign that includes address information not more than three and one-half (3.5) feet tall or three and one-half (3.5) feet in width. These yard signs shall only be made of masonry, stone, tile and ornamental metals.
- (h.) In the event that more than one (1) sign-related definition applies to an existing or proposed sign, resulting in conflicting regulations thereon, the most restrictive regulation shall apply.
- (i.) Clear sight triangle: Parking lot driveway. A clear sight triangle shall be formed on both sides of a driveway into a parking lot. Size shall be determined by measuring ten (10) feet along the property line and ten (10) feet along the driveway. No sign more than two (2) feet in height shall be erected or placed in this triangle.
- (j.) Clear sign triangle: Street corner. A clear sight triangle shall be formed by measuring twenty (20) feet along the property line in both directions from the corner of the lot adjacent to the intersecting streets. No sign or landscaping more than two (2) feet in height shall be erected or placed in this triangle. A single support with no sign structure or copy between a point thirty (30) inches and eighty-four (84) inches above the street grade is not considered a violation of clear sight triangle.
 - (1.) See Exhibit 1 in the definitions of this article for schematic of clear sight triangles.
- (k.) For the purpose of this ordinance and regulations within it, including digital displays and message boards, "sign" does not include signs erected and maintained pursuant to and in discharge of any governmental function or required by law, ordinance or governmental regulation, including schools, community service organizations, educational facilities and libraries. All other applicable ordinance regulations must be followed.

Section 24-79 Types of signs.

(a.) Subdivision sign.

- (1.) Time — A sign permit is required. A sign permit may not be issued until the subdivision or land development has received all required approvals from the City. These signs may remain in place until all units in the subdivision are sold.
- (2.) Place — The Sign shall not be placed within any city easement or right-of-way or within ten (10) feet of a property line. The minimum distance between Signs is two hundred (200) feet.
- (3.) Manner — Such signs shall not exceed two hundred (200) square feet in face area and may be indirectly lighted. Flashing or moving parts are not permitted.

(b.) Political signs.

- (1.) In this section, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.
- (2.) Time — A sign permit is not required. Political signs shall be removed within ten (10) calendar days after the election is decided.
- (3.) Place — Political Signs can only be located on private property with the consent of the property owner. A political sign shall not be placed or posted: (a) closer than ten (10) feet from the edge of the street pavement; (b) on any public property except where authorized by law; and/or (3) within a designated public easement or right-of-way.
- (4.) Manner Political Signs shall not:
 - a. exceed eight (8) feet in height measured from the ground to the highest point of the sign;
 - b. exceed thirty-six (36) square feet in area;
 - c. be illuminated;
 - d. contain any moving elements or parts; and
 - e. shall not be dilapidated or cause a hazard. (LGC Sec. 216.903)

(c.) Canopy signs.

- (1.) Time — A Sign Permit is required. A Sign Permit shall not be issued to erect, install or place a Canopy Sign on a property until a site plan has received all necessary approvals by the City for development of the property and after the issuance of a building permit for a building on the property.
- (2.) Place — Canopy Signs may only be erected on the two (2) sides of the canopy band that face a public street.
- (3.) Manner — Canopy signs shall be counted as part of and limited to the total square footage allowable for wall signs. Awning signs are permitted in this section. A building permit or certificate of occupancy is required for placement of a canopy sign.

(d.) Sloping roof signs.

- (1.) Time — A sign permit is required.
- (2.) Place — Sloping roof signs shall not project horizontally or vertically beyond the roof line. These signs are permitted in B1, B2, B3, I1 and I2.

(3.) Manner — Not more than ten (10) percent of any sloping roof area shall be devoted to these signs.

(e.) Freestanding signs.

(1.) Time — A sign permit is required.

(2.) Place — Freestanding signs are permitted on development lots.

(3.) Manner — Listed below:

- a. One (1) freestanding sign for each freestanding building, not to exceed one (1) freestanding sign per development lot.
- b. Area: The area of a freestanding sign shall not exceed sixty-four (64) square feet of gross face area. All sixty-four (64) square feet may be composed of an Electronic Video Screen and an Electronic Message Center.
- c. Height: The height of a freestanding sign shall not exceed thirty-five (35) feet.
- d. Setback: The setback of a freestanding sign shall be a minimum of ten (10) feet from lot lines.
- e. Corner lots: On corner lots the major or primary street shall be construed to be the development lot frontage, and no more than one (1) sign shall be permitted. On a development lot located at the intersection of two (2) major thoroughfares or two (2) expressways or a major thoroughfare and an expressway, a freestanding sign shall be permitted on each such thoroughfare or expressway.

(f.) Temporary signs.

(1.) Time — A sign permit is required.

(2.) Place — A temporary sign shall not be placed within a designated public easement or right-of-way, and may be placed in windows and cannot be placed closer than ten (10) feet from the edge of the street pavement, on any public property except where authorized by law; and/or within a designated location.

(3.) Manner — Any sign shall have a combined area not exceeding fifty percent (50%) of the area of all the windows on the same wall; a freestanding temporary sign shall not exceed five (5) feet in height measured from the ground to the highest point of the sign and shall not exceed twenty (20) square feet in area. Said sign area shall not be counted against total permitted sign area. Temporary signs shall not be illuminated, contain any moving elements or parts, be dilapidated or cause a hazard. Temporary sign may only stay up for a total period of thirty (30) days once per calendar year.

(4.) Banners, pennants, search lights, business flags, banner flags, twirling signs, sandwich or "A" frame signs, sidewalk or curb signs, balloons or other inflatable objects: These types of signs may be authorized for a period not to exceed thirty (30) days once per calendar year. Extensions will only be permitted to properties awaiting permanent sign fixture with proof of order. A permit must be obtained from the appropriate city official and follow the city's permitting process.

(5.) Up to two (2) additional Temporary Signs may be placed on a development lot or subdivision without a permit during time periods on which the signs are located is for sale or lease, provided such signs shall not exceed thirty-two (32) square feet in area and eight (8) feet in height. A sign

permit is not required. Signs must be removed within fourteen (14) days following the purpose or use of the sign is concerned. These signs can only be located on private property with the consent of the property owner. These signs shall not be placed or posted: (a) closer than ten (10) feet from the edge of the street pavement; (b) on any public property except where authorized by law; and/or (3) within a designated public easement or right-of-way. These signs must not be illuminated or have any electronic component. In areas noted in Section 24-80(c.), signs may not exceed two hundred (200) square feet in face area for the proposed use of property on which they are placed. In residential areas, one (1) unlighted sign not exceeding four (4) square feet in face area is permitted under this section.

- (6.) Up to two (2) additional Temporary Signs may be placed on construction sites without a permit, provided such signs shall not exceed sixty-four (64) square feet in area and eight (8) feet in height after approval of a site plan, plat or building permits, as applicable, and/or which do not remain erected for more than seven days after the completion of the construction project.

(g.) Portable or wheeled signs.

- (1.) Time — A sign permit is required. A portable or wheeled sign is authorized for a period not to exceed thirty (30) calendar days in any calendar year. The thirty (30) calendar days may be broken into any combination of increments.
- (2.) Place — A portable or wheeled signs may not be displayed on property that does not maintain a certificate of occupancy or building permit.
- (3.) Manner — Flashing parts, moving parts, or any appurtenance causing a visual distraction to motorists or pedestrians is prohibited.

(h.) Monument Sign

- (1.) Time — A sign permit is required.
- (2.) Place — Monument signs are permitted on development lots.
- (3.) Manner — Listed below:
 - a. One (1) monument sign per development lot per street frontage.
 - b. Area: The area of a monument sign shall not exceed fifty (50) square feet of gross face area. Electronic Video Screen and an Electronic Message Center are prohibited on monument signs.
 - c. Height: The height of a monument sign shall not exceed five feet six inches (5'6").
 - d. Setback: The setback of a monument sign shall be a minimum of fifteen (15) feet from lot lines.
 - e. Material requirements: All monument sign bases generally should be constructed of masonry material consisting of brick, stone or split face concrete block. Alternative materials of similar quality may be allowed. . Sculpted aluminum sign panels will be allowed. All sign text and graphic elements shall be limited to a minimum of six inches (6") from the outer limits of the sign structure.
 - f. Illumination: Monument signs shall only be illuminated utilizing internal lighting for sculpted aluminum panels or a ground lighting source where the light itself and supporting sign structure are not visible from public right-of-way.

- (i.) Miscellaneous signs. Signs in residential zones shall not exceed two (2) square feet in face area. In nonresidential zones, these types signs may not exceed four (4) square feet. Signs placed with the intent of warning or advising the public of possible danger that may be encountered on private property shall not exceed two (2) square feet in face area. In nonresidential areas, this type sign may not exceed four (4) square feet in face area. An opening soon type sign may be placed in nonresidential areas provided it is the property it is placed on private property with consent of the owner and is not more than sixty-four (64) square feet in face area.

Section 24-80 Special district sign requirements.

(a.) Residential districts.

- (1.) Time — No sign permit is required.
- (2.) Place — A person having a legal home occupation may display a nameplate on the face of the building or porch.
- (3.) Manner — The nameplate shall be attached directly to, and parallel to, the face of the building or porch. It shall not exceed one (1) square foot in area, shall not be illuminated in any way, and shall project not more than six (6) inches beyond the building or porch. No electronic video screen or electronic message center sign are allowed in a Residential District.

(b.) Mobile home park district. A ground sign or wall sign not more than one hundred (100) square feet in total area may be erected on property of the mobile home park and may be indirectly lighted.

- (1.) Time — A sign permit is required.
- (2.) Place — A mobile home park sign may be erected on property of the mobile home park.
- (3.) Manner — A mobile home park district sign may be a ground sign or wall sign not more than one hundred (100) square feet in total area and may be indirectly lighted.

(c.) Office and professional districts, neighborhood service districts, general business districts, light industrial districts, medium industrial districts, apartment/multifamily residential districts. No wall sign shall exceed sixty-four (64) square feet in gross face area. Wall signs shall project no more than two (2) feet perpendicular from the wall and not more than three (3) feet vertically above the wall of the building.

- (1.) Time — A sign permit is required.
- (2.) Place — The wall signs in these districts may be attached to buildings. Freestanding signs are permitted subject to the guidelines and regulations in article.
- (3.) Manner — No wall sign shall exceed sixty-four (64) square feet in gross face area. Wall signs shall project no more than two (2) feet perpendicular from the wall and not more than three (3) feet vertically above the wall of the building. A wall sign may include neon tubing attached directly to a wall surface when forming a border for the subject matter or when forming letters, logos, or pictorial designs. No building shall have both a wall sign and any other type of sign on the same building face.

(d.) Garden offices.

- (1.) Time — A sign permit is required.
- (2.) Place — Any zoning district where B-1, B-2, or B-3 is permitted.

- (3.) Manner One (1) pylon sign per complex may be erected advertising the total number of office tenants. If the complex is located on a corner lot, the corner lot provision contained in Section 24-79 (e.) shall apply. The face area of the sign may not be larger than ten (10) feet by thirty (30) feet, mounted six (6) feet above the ground with a maximum height of thirty-six (36) feet. The sign and the street address must have letters no less than six (6) inches high will appear at the top of the copy. There may be one (1) sign no larger than fifteen (15) square feet in face area and placed flush on the wall near the entrance. As an alternate one (1) hanging sign or one (1) ground sign containing no more than six (6) square feet in face area may be erected.

Section 24-81 Prohibited signs

The following signs shall be prohibited in all districts:

- (a.) Any signs and supports, other than those signs and supports owned or required by a governmental authority, or for which a street use license has been issued, which are located on the public right-of-way, including on public streets, alleys and parkways.
- (b.) Signs with flashing, blinking or traveling lights.
- (c.) Displays are classified as a sign and is not permitted in any residential district.
- (d.) Any signs which resemble an official traffic sign or signal, or which bear the words of traffic control, except for Government Signs.
- (e.) Signs which, by reasons of their size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal or device, or the light of an emergency or road equipment vehicle, or which hide from view any traffic or street sign or signal or device.
- (f.) Any sign which emits sound, odor or visible matter which serves as a distraction to persons within the public right-of-way.
- (g.) No signs shall be erected except as noted under this article.
- (h.) Signs constructed of scrap materials, paper, tree, rock, bridge, or other such fragile or materials which are non-weather resistant.
- (i.) The use of fluorescent paint, metallic paint, or similar nonconventional paint emitting luminosity upon exposure to external radiation or bombardment by a stream of particles is expressly prohibited.
- (j.) Any sign in apparent compliance with this ordinance, but which staff deems is by design, construction or erection hazardous to persons, will require approval of council in accordance with the variance or appeal process outlined in Section 24-87.
- (k.) No electronic video screens and electronic message centers are permitted in a Residential District.
- (l.) Window border lights or other lighting directed to exterior of the building which outline doors, windows, attached columns or other parts of the building.
- (m.) Any sign not referenced in or governed by this article.
- (n.) Any sign erected or installed without the issuance of a permit, either prior to or after the adoption of this chapter (if a permit was required).

- (o.) Any sign erected or installed in or over a public right-of-way, utility pole, or access easement, unless permitted within this article.
- (p.) Any sign that does not comply with this or other applicable municipal ordinances, or those which do not comply with federal or state laws.
- (q.) Prohibited signs, if not specifically mentioned in this article otherwise are as follows:
 - (1.) Abandoned sign.
 - (2.) Balloons and other floating devices.
 - (3.) Cloud buster balloon and air devices.
 - (4.) Neglected sign.
 - (5.) Bandit signs.
 - (6.) Signs on public property or in the public right-of-way, including public easements, except for those specifically licensed or permitted by the city.

Section 24-82 Parking of vehicles.

- (a.) No person shall park a vehicle or trailer to be used as a sign on a public right-of-way, on public property, or on private property so as to be visible from a public right-of-way, except in accordance with Section 24-79(g.).

Section 24-83 Existing signs.

- (a.) Where existing signs are in newly annexed areas a permit shall be obtained.
- (b.) Where existing signs do not comply with this ordinance with respect to location, height, size, area of display, minimum ground clearance and are not a hazard or nuisance and are in good condition, an exception may be granted upon filing of an application for a permit, when required, and passage of an inspection by the city staff official or a variance may be applied for to submit to City Council.
- (c.) All abandoned and damaged signs and their supports shall be removed within sixty (60) days from the date of abandonment. All damaged signs shall be repaired or removed within sixty (60) days. The appropriate staff official shall have the authority to grant a time extension not exceeding an additional sixty (60) days for an abandoned, nondamaged sign.
- (d.) Should the responsible party or parties after due notice fail to correct a violation of this section, the appropriate staff official shall cause such signs and supports to be removed. This official, on behalf of the city, shall also take necessary action to file against the property a lien in the amount of the cost of such work if such costs are not paid by the property owner within fifteen (15) days after he is billed.
- (e.) Nonconforming sign registration and amortization.
 - (1.) Registration. The operator and/or owner of any nonconforming sign shall register such nonconforming sign and obtain from the city manager and/or his designee a certificate of nonconforming rights, within ten (10) years after the sign becomes nonconforming or ten (10) years after the date of publication of the current version of this sign chapter, whichever occurs later. If a sign qualifies as a nonconforming sign and the operator and/or owner registers the

sign with the city, the city manager or his/her designee shall issue a certificate of nonconforming rights. Failure to obtain this certificate of nonconforming rights within the requisite time shall terminate the sign's status as a nonconforming sign and such sign shall be considered an illegal sign, which must come into compliance with all current ordinances.

- (2.) Amortization. Any nonconforming sign may be amortized and removed by the city in accordance with the procedural and compensation requirements specified in chapter 216 of the Texas Local Government Code and as outlined in this Chapter.

(f.) Maintenance of signs and neglected and abandoned signs.

- (1.) All signs, including but not limited to nonconforming signs shall be maintained to consistently have a neat appearance. Sign panels and/or sign graphics shall be secured and maintained so that they do not separate from, hang from, or fall from a sign. Sign panels and sign graphics shall not be faded, ripped, or have any other damage.
- (2.) Abandoned signs and neglected signs shall be considered a public nuisance and are prohibited by this chapter. Upon written notification by the building official or his/her designee, such abandoned signs shall be removed from the premises and neglected signs shall be repaired or removed from the premises by the owner, agent or person having beneficial use of the land, building or structure upon which such sign is located. The notification shall state that the offending sign shall be repaired or removed by the owner, agent or person having beneficial use of the land, building or structure upon which such sign is located within ten (10) calendar days after written notification to do so by the building official or his/her representative. The notification shall further state that if the sign is not removed or repaired, a citation may be issued and the city may resort to any civil remedy available to remove or repair the sign, up to and including impoundment. If any sign is determined to present an immediate danger to public health, safety or welfare, the city shall remove it immediately upon obtaining a written court order for such removal. Within ten (10) calendar days of the removal of the sign, the building official shall notify the owner of the property on which the sign was located of the reason(s) for the removal of such sign.
- (3.) It shall be unlawful for any person, firm, entity or corporation receiving such written notification to fail to comply with the direction of the notice. In the event failure to comply with such notice provided under this section, the building official is hereby authorized to cause the removal and impoundment of such sign upon the issuance of a written court order authorizing the removal and impoundment of such sign. Any expenses incident thereto shall be the responsibility of the owner, agent, or person having beneficial use of the land, building or structure upon which such sign was located. The city shall invoice the owner, agent, or person having beneficial use of the land for such expenses incurred by the city associated with the removal and impoundment of such sign.

Section 24-84 Permits.

(a.) Restrictions.

- (1.) Except as otherwise provided for herein, no sign shall be erected, posted, painted or otherwise produced, changed, reconstructed in whole or in part, retained or maintained within the City of Live Oak without first obtaining a permit. The City is authorized to charge a fee for issuance of sign permits in accordance with the City's Fee Schedule adopted by the City Council and as amended from time to time as necessary.

(b.) Requirements. A sign requiring a permit shall be inspected annually by the appropriate staff official or his duly appointed agent, assistant or deputy to ensure compliance with the provisions of this ordinance and other relevant city ordinances. Additional inspections may be conducted at the discretion of the appropriate staff official during the term of the permit to enforce the provisions of this ordinance.

(c.) Issuance.

(1.) A permit shall not be issued when:

- a. An existing sign is in a deteriorated, unsafe or unsightly condition.
- b. A sign is not in compliance with or authorized under this ordinance.
- c. Authorization of the property owner has not been obtained.
- d. The property at issue for the sign permit does not have either a building permit or a Certificate of Occupancy issued by the Development Services Department on the property.

(2.) A permit shall not be required for:

- a. Displaying street numbers.
- b. Temporary signs under Section 24-79(f.)(5.).
- c. Simple routine maintenance, adjustments, replacement of light globes etc., on existing signs as authorized under this Article.
- d. When a sign has been damaged by fire, windstorm or other causes, immediate work to repair may be done to prevent damage to property or hazard to persons, and to this extent only. Notice will be given by the property or business owner as soon as practical to the appropriate staff official to advise of such damage and repair.

(d.) Fees.

(1.) Sign permit fees shall be charged in accordance with the Fee Schedule adopted by the City Council and as amended from time to time as necessary.

Section 24-85 Special sign use districts

The following special sign use districts (SSUDs) are created with specific requirements as specified:

(a.) SSUD-1. The area extending two hundred (200) feet on both sides of the Toepperwein Road right-of-way from the intersection of Toepperwein Road and Miller Road west to the intersection of Toepperwein Road and Village Oak Drive is hereby designated as SSUD-1.

The following criteria shall apply to all signs in SSUD-1:

- (1.) Area: No sign shall exceed sixty-four (64) square feet in gross face area.
- (2.) Height: No sign shall exceed twenty-five (25) feet in height.
- (3.) Setback: All signs shall have a minimum setback of ten (10) feet from lot lines.
- (4.) All 64 square feet may be composed of an electronic video screen or an electronic message center.

(5.) Sign must be equipped with an auto-dimming feature and should be dimmed thirty (30) minutes prior to dusk each night.

(6.) Moving animations with flashing or traveling images on the electronic video screen are prohibited.

(7.) Electronic video screens and electronic message centers shall be set so as to not cycle through messages more than once every ten (10) seconds.

(8.) In a garden office as noted in Section 24-80(d.), Garden Offices: One (1) freestanding sign per complex may be erected to include the total number of tenants. The face area of the sign may not be larger than ten (10) feet by (20) feet if located in SSUD-1.

(9.) All other nonconflicting provisions of this ordinance shall apply to SSUD-1.

(b.) SSUD-2. In addition to all other applicable regulations provided for in the City's code of ordinances the following regulations shall apply to signs within SSUD-2.

The area extending two hundred (200) feet on both sides of IH-35, Loop 1604, and Pat Booker Road within the city limits of the City of Live Oak is hereby designated as SSUD-2.

The following criteria shall apply to all signs in SSUD-2:

(1.) Area: No sign shall exceed four hundred (400) square feet in gross face area.

(2.) Height: No sign shall exceed sixty (60) feet in height.

(3.) Setback: All signs shall have a minimum setback of ten (10) feet from lot lines or as specified by the Texas Department of Highways and Public Transportation if applicable.

(4.) Sign must be equipped with an auto-dimming feature and should be dimmed thirty (30) minutes prior to dusk each night.

(5.) Moving animations with flashing traveling images on the electronic video screen are prohibited.

(6.) Electronic video screens and electronic message centers shall be set so as to not cycle through messages more than once every ten (10) seconds.

(7.) All requirements of the Texas Department of Transportation must be met, and evidence of compliance provided to the City as part of the permit process.

(c.) SSUD-3. In addition to all other applicable regulations provided for in the City's code of ordinances the following regulations shall apply to signs within SSUD-3.

The area extending from the intersection of Hwy 218 (Pat Booker Rd.) and the Loop 1604 Eastbound access road, west 1,200 feet along both joining State roadways (Hwy 218 and Loop 1604) and connecting and encompassing the area between, within the City Limits of the City of Live Oak, shall be designated as SSUD-3. [Map is attached to Ord. No. 1489 and on file with the City.]

The following criteria shall apply to all signs in SSUD-3:

(1.) Area: No sign shall exceed four hundred (400) square feet in gross face area. Combined free standing signage cannot exceed eight hundred (800) feet in gross square feet area.

(2.) Height: No sign shall exceed sixty (60) feet in height.

(3.) Setbacks: All signs shall have a minimum setback of ten (10) feet from lot lines or as specified by the Texas Department of Transportation as applicable.

- (4.) Special Provisions: Development lots within SSUD-3 may have two (2) Freestanding Ground Signs as described by section 4.5, no more than one at the frontage of each State Highway.
- (5.) The Digital Display Regulations applicable in Section 15 shall apply to SSUD-3, as well as the following regulations:
- (6.) Moving animations with flashing traveling images on the electronic video screen are prohibited.
- (7.) Electronic video screens and electronic message centers shall be set so as to not cycle through messages more than once every ten (10) seconds.
- (8.) Sign must be equipped with an auto-dimming feature and should be dimmed thirty (30) minutes prior to dusk each night.
- (9.) All requirements of the Texas Department of Transportation must be met, and evidence of compliance provided to the City as part of the permit process.

Section 24-86 Penalties for violation.

Any person who shall violate any provision of this article shall be charged with a misdemeanor and shall, upon conviction thereof, be assessed a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) unless it is a health and safety issue which includes a max fine of two thousand dollars (\$2,000.00).

Section 24-87 Variance and appeal procedure.

(a.) Variances

- (1.) A request for a variance of requirements as set forth in this ordinance may be made to the board of adjustment. The variance must be made in writing at the time of the permit application. If the applicant is not the property owner, authorization from the property owner is required for the variance application.
 - (2.) In order to approve a request for a variance, the board of adjustment shall determine that the request meets three (3) of the following four (4) criteria:
 - a. The proposed sign shall not adversely impact the adjacent property (visibility, size and the like);
 - b. The proposed sign shall be of a unique design or configuration;
 - c. The variance is needed due to restricted area, shape, topography, or physical features that are unique to the property or structure on which the proposed sign would be erected; or
 - d. The variance will substantially improve the public convenience and welfare and does not violate the intent of this chapter.
 - (3.) A variance shall not be approved for a sign that is prohibited by this chapter.
 - (4.) The board of adjustment's decision is final.
- (b.) Appeal of a decision by city staff regarding this article may be made to the board of adjustment by notification, within ten (10) days of the decision to the city secretary. The appeal will be placed on

an agenda as soon as practical to conduct a hearing before the board of adjustment. Staff shall notify the petitioner of their right to appeal.

Section 24-88 Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

Section 24-89 Definitions.

[See below exhibit 1 for specific graphic examples of signs].

A-frame sign: A temporary sign made of two (2) pieces of wood, metal or other similar material approved by the building official connected at the top by hinges or similar device(s) and may collapse when the connecting device(s) are overextended or the two (2) pieces of wood, metal or other similar material are against one another. Also, commonly referred to as a "sandwich board sign."

Abandoned sign: A sign that had a permit on a piece of property or premises, but the permit has been expired for more than one (1) year and has become dilapidated or has ceased use in that timeframe. Abandoned signs are prohibited in the city.

Amortization: In terms relevant to signage and urban planning, it conveys the "grace period" beginning on the date a sign owner is notified that removal of a previously conforming sign has been ordered, and ending on the date removal is required. This process makes a sign structure, which was legally erected or placed pursuant to permit, legally nonconforming for a period of time - the amortization period. After the amortization period expires, the sign becomes illegally nonconforming and must be removed.

Apartment sign: A temporary stake sign made of wood, metal or other similar material approved by the building official in zoning district R5.

Animation: Shall mean the use of movement or some element thereof to depict action or create a special effect or scene.

Area of sign: Shall be the total face area which includes the message and the border of the sign. It does not include the supporting super-structure. See Exhibit 1 [to this article] for determining the face area of an irregular shape or other than a rectangle.

Bandit Sign: Any sign posted on a utility pole, street sign, or other street furniture or a sign posted on public property or public right-of-way in violation of this chapter.

Banner: A temporary sign having characters, letters, or illustrations applied to plastic, cloth, canvas, or other light fabric or similar material, with the only purpose of such nonrigid material being for background.

Canopy sign: A sign that is applied, attached, painted or affixed on a canopy or other roof-like covered areas where it is intended for protection from the weather or other safety measure.

Canopy/awning sign: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, patio, deck, or window, and any sign attached to a freestanding canopy structure, which may be retractable or nonretractable projection, shelter or structure. A marquee is not a canopy.

Development lot: Developed lot which is ground leased or which has structures in place for use and has a building permit, and/or certificate of occupancy, or a certificate of final acceptance.

Developed: A developed property is a nonresidential property for which a building permit or certificate of occupancy has been issued by the building official to occupy a building on the property or a residential property for which a certificate of final acceptance has been issued by the city.

Digital conversion: Shall mean the replacement of a previously installed static sign face with a digital display.

Digital display: Shall mean an Electronic Video Screen or Electronic Message Center.

Dilapidated: Any surface element, background, or support of any sign that has finished materials that are missing, broken, bent, cracked, decayed, dented, harmful, hazardous, illegible, leaning, splintered, ripped, torn, twisted, or unsightly.

Dwell time: Shall mean the interval of change between each individual message. Dwell time shall include the one (1) second or less required to change a message.

Electronic message center: Shall mean a sign or portion of a sign which uses LED technology to form a sign message or messages in text form, with or without fixed images, wherein the sequence of messages the rate of change is electronically programmed and can be modified by electronic processes.

Electronic video screen: Shall mean a sign or portion of a sign which displays an electronic video which may or may not include text including television screens, plasma screens, digital screens, flat screens, LED screens, tri-vision technology, video boards and holographic displays

Flashing: Shall mean a pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated, employs inverse illumination, or operates with transitory bursts for periods of less than one (1) second. This term shall include blinking, strobe, and twinkling illuminations. Animation, as defined, shall not fall under the definition of flashing.

Foot-candle: Shall mean a unit of light measurement equal to one (1) lumen per square foot. Foot-candle may be abbreviated "fc."

Freestanding sign: Any sign supported by structures or supports that are placed on, or anchored in the ground and that are independent from any building or other structure.

Full-motion video: Shall be defined as the use of live action footage shot with a video camera or similar device and sized to fit and be displayed by an electronic message sign or similar device.

Garden office: Business offices with multiple tenants and/or buildings, where not all the tenants front onto the street.

Ground sign: Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.

Government Sign: A sign installed, maintained, or used (i) by the city, county, State of Texas or the federal government, required or specifically authorized for the public purpose pursuant to regulations promulgated by the state or federal government, (ii) a traffic-related sign installed by any government agency within public right-of-way, or (iii) convey information to the public regarding city, state, or federal government activities and special events.

Monument sign: A sign supported from the grade to the bottom of the sign having or appearing to have a solid base.

Moving sign: Any sign, sign appendages or apparatus designed or made to move freely in the wind or designed or made to move by an electrical or mechanical device. Moving signs, and/or any sign appendage that moves.

Neglected sign: A sign that has any missing panels, burned out lights, missing letters or characters, has rust, has loose parts, has damage, faded from its original color, supports or framework with missing sign or parts, or is not maintained.

Nonconforming sign: Any sign and its supporting structure that does not conform to all or any portion of this chapter and was in existence and lawfully erected prior to the effective date of this chapter; and was in existence and lawfully located and used in accordance with the provision of any prior ordinances applicable thereto, or which was considered legally nonconforming there under, and has since been in continuous or regular use; or was used on the premises at the time it was annexed into the city and has since been in regular and continuous use continuously existed as a nonconforming sign.

Pole sign: A sign erected on a vertical framework consisting of one (1) or more uprights supported by the ground. With the exception of the pole signs specifically authorized by this chapter, pole signs are prohibited in the city. A pole sign is also Freestanding Sign under Section 4.5.

Portable sign(s): Any sign designed or intended to be relocated from time-to-time, whether or not it is permanently attached to a building or structure or is located on the ground. Portable signs include signs on wheels or on portable or mobile structures, such as, among other things, trailers, skids, banners, tents or other portable structures, A-frame signs, T-shaped signs, airborne devices, or other devices used for temporary display or advertising.

Public nuisance: Any sign or similar device that is obscene, causes a hazard or dangerous condition to the general public.

Public right-of-way: An area or strip of land, dedicated or conveyed for municipal public use, occupied or intended to be occupied by a street, walkway, utility line, drainage channel, or other municipal public uses as authorized by law.

Portable sign(s): Any sign designed or intended to be relocated from time-to-time, whether or not it is permanently attached to a building or structure or is located on the ground. Portable signs include signs on wheels or on portable or mobile structures, such as, among other things, trailers, skids, banners, tents or other portable structures, airborne devices, or other devices used for temporary display or advertising. Portable signs are prohibited in the city and its extraterritorial jurisdiction, except as specifically allowed by other sections of this chapter.

Roof sign: A sign mounted on and supported by the roof portion of a building or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building or a sign that is painted directly to or applied on the roof or top of a building or structure. A sign that is mounted on mansard facades, pent eaves or architectural projections, such as canopies or the fascia (wall) of a building or structure shall not be considered to be a roof sign.

Sign: Any form of an object conveying information or instruction by means of words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names or trademarks, or other pictorial matter designed to convey such information and displayed by means of print, bills, posters, panels, or other devices erected on an open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings, or structures or supports. This definition shall also include any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or communicate information of any kind to the public.

Subdivision: For purposes of this chapter, the subdivision in its entirety, including all phases, sections, Villages, or units under a common development plan.

Temporary sign: Any sign used to display information with a limited duration which is not rigidly and permanently installed into or on the ground, attached to a building, or as identified in this chapter.

Variance: An official written request to the City Council to allow exceptions to regulations or requirements of this appendix.

Vehicle: Any operable or inoperable motorized machine on wheels, treads, or runners by which any person, materials, commodity, or property is or may be transported.

Vehicle sign: A sign painted upon or applied directly (to include magnetic, but not signs taped to) to any vehicle, truck, car, bus, trailer, boat, recreational vehicle, motorcycle or any other vehicle. Vehicle signs shall exclude bumper stickers and state required registration or inspection stickers/identifications.

Wall sign: Any sign erected against an exterior wall, erected parallel to a wall or painted directly onto a wall. A wall sign is a sign painted on or erected parallel to and extending not more than twelve (12) inches from the facade of any building to which it is attached, supported throughout its entire length by the building face.

Window sign. Any sign, poster, window slick, or other similar displayed item, excluding banners (see 'banners'), located on the internal or external surface of a window that is visible from a public street or sidewalk. A sign applied on or over a window and/or visible through a window from the exterior of a building is a wall sign.

EXHIBIT 1

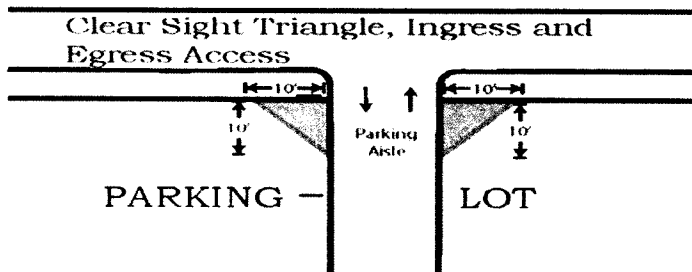
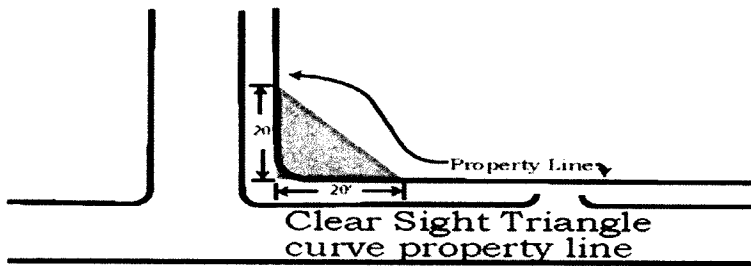
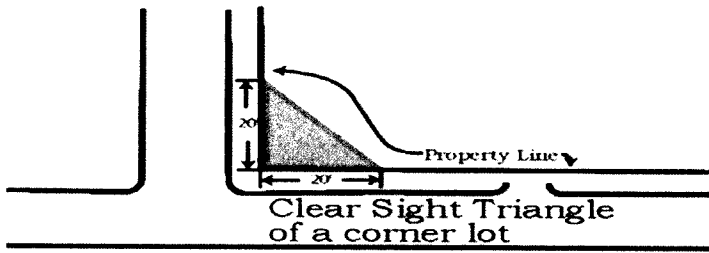


EXHIBIT 1

DETERMINING THE TOTAL FACE AREA OF A SIGN

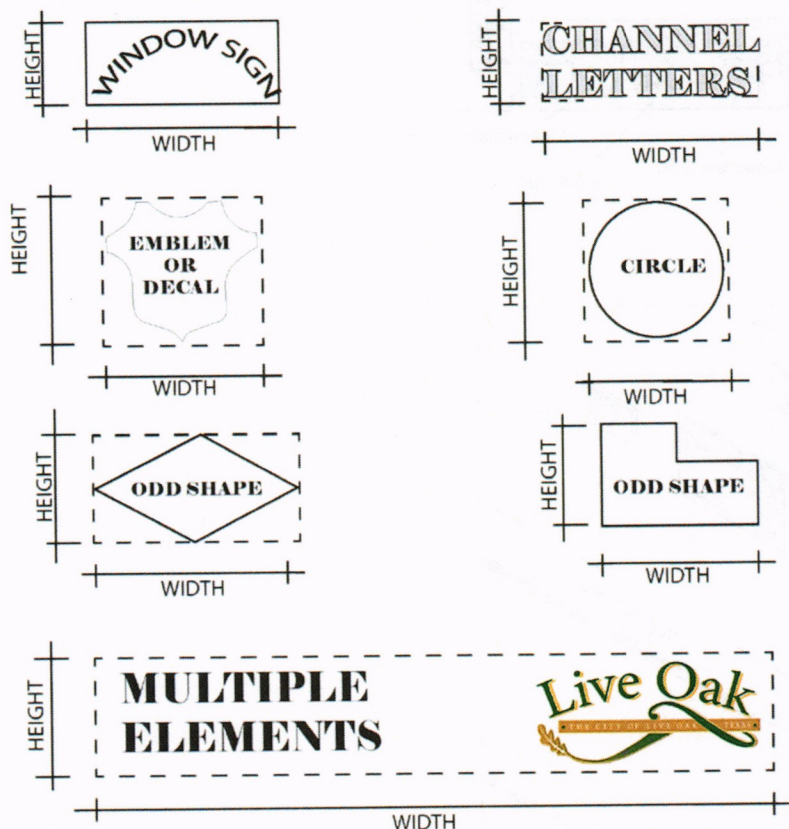
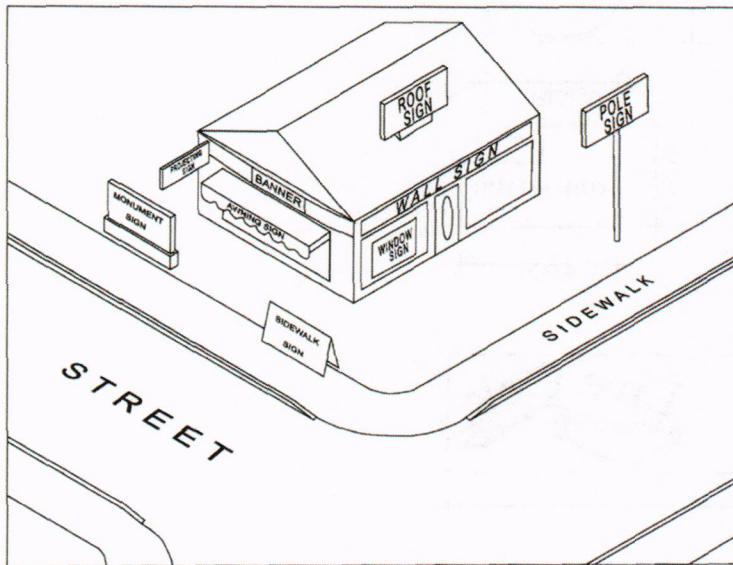
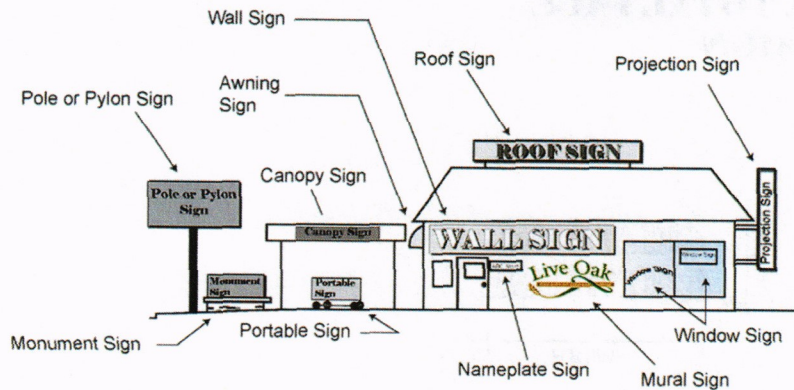


EXHIBIT I



Section 24-90 Digital display regulations.

This section applies to electronic messaging center and electronic video screens defined in Sections 24-79 and 24-89 above.

- (a.) Digital displays are restricted to the areas specified as special sign use districts in this ordinance. The minimum distance between digital displays for an individual business or property shall be two hundred (200) feet.
- (b.) Digital displays shall be illuminated at a level no greater than 0.3 foot-candles over ambient light levels for the location and time, and shall employ light cutoff devices such as, but not limited to, louvers to minimize light escaping above the horizontal plane. Foot-candle readings shall be measured at ground level at a distance of one hundred (100) feet from the source.
- (c.) Digital displays in proximity to residential areas shall be illuminated at a level no greater than 0.2 foot-candles as measured from the nearest residential property line.

- (d.) All digital displays must be equipped with both a dimmer control and a photocell which automatically adjusts the display's intensity according to natural ambient light conditions.
- (e.) All digital displays shall contain a default mechanism to turn off the sign in case of malfunction or shall be manually turned off with twenty-four (24) hours of a reported malfunction.
- (f.) Digital displays, as defined, lawfully in existence prior to the effective date of this ordinance are exempted from the provisions of this ordinance until such time the displays are replaced.
- (g.) Any sign related to a governmental function described in Section 24-78(k.) is exempt from the times requirement of these regulations.
- (h.) Digital display signs must comply with all rules and regulations for electronic signs adopted by the Federal Highway Administration, United States Department of Transportation and the Texas Department of Transportation.
- (i.) Digital display sign permit applicants must present a TXDOT outdoor advertising permit as outlined in the permit application and present to staff at least 15 days before installation of the sign begins.

Section 24-91 Master sign plan.

- (a.) Purpose. Master sign plans are authorized under this section to allow, within parcels as this section deems applicable, the following:
 - (1.) The unified presentation of signage throughout applicable parcels;
 - (2.) The authorization to deviate from the existing rules relating to number, height, dimensions, locations, or design characteristics of attached or freestanding signs within the master sign plan area when the design and quality components of the signs proposed in the master sign plan area exceed the existing rules in other aspects;
 - (3.) The flexibility to provide for unique environments; and
 - (4.) A pre-approval of designs and design elements process that will make subsequent applications for sign permits under an approved master sign plan more efficient.
- (b.) Applicability. An application for a Master Sign Plan Permit is authorized only for those developments located within the General Business District (B-3) that meet the criteria that follows:
 - (1.) Single-use development: a single use development that exceeds 100,000 square feet of gross floor area; or
 - (2.) Multi-tenant development: A multi-tenant development that exceeds 150,000 square feet of gross floor area.
- (c.) Definitions. In this Section, the terms below shall have the definitions that follow:
 - (1.) Administrator shall mean the City manager or his/her designee who shall be authorized to review and approve or reject master sign plan applications and have administrative authority over approved master sign plan applications.
 - (2.) Applicable rules means the City's sign rules and regulations a sign would otherwise be subject to but for its inclusion in an approved master sign plan.

- (3.) Development means an existing or proposed single use development that exceeds 100,000 square feet of gross floor area or multi-tenant development that exceeds 150,000 square feet of gross floor area.
 - (4.) No progress means that no sign authorized by an approved master sign plan has been installed.
 - (5.) Section means this Section 24-91.
 - (6.) Uniformed Codes means those national codes, including but not limited to the International Building Code and the International Electrical Code, that have been adopted by the City.
- (d.) Permit Application.
- (1.) The owner of a platted lot of real property on which a development is currently located or is proposed may submit a permit application, on such form as is provided by the Administrator and the permit application fee, as set out in the City's Fee Schedule adopted by City Council and amended from time to time as necessary.
 - (2.) A master sign plan application shall include 3 copies of the site layout of the single-use or multi-tenant development and a narrative.
 - a. Contents of site plan. The site plan shall depict the proposed signage for the entire development. For example, shopping center master sign plans shall include all tenants and out parcels; and office or industrial parks shall include all types of signs for wayfinding and tenants or uses within the development. The site plan shall include the following:
 - i. Identification of development as single-use or multi-use with total square footage of gross floor area in the development;
 - ii. A depiction of all proposed signs that will deviate from the underlying sign regulations;
 - iii. Size, location, and number of all signs, including area, letter height, and height;
 - iv. Materials, styles (letter colors, background colors, text, fonts, etc.), and colors for all signs subject to the master sign plan, including context of where signs are to be placed on any given façade;
 - v. Proposed illumination (external, internal, etc.), including illumination levels;
 - vi. A design theme with illustrative examples of each sign type and the proposed general locations of each sign type;
 - vii. Site plans for multi-tenant developments shall provide that wall signs displayed by two (2) or more businesses using common parking facilities shall be uniform in construction (i.e. channel letters, plaques) and lighting (i.e. direct, indirect); and
 - viii. Landscaping and/or ornamental structures including fences, fountains, public art, ground cover, and other landscaping elements that are intended to complement those proposed signs that would deviate from the underlying sign regulations.
 - b. Narrative. The application shall include a narrative explaining the reasons for any deviation under existing rules from the number, height, dimensions, locations, or design characteristics of attached or freestanding signs that is sought under the master sign plan. The narrative should articulate design and quality components that exceeds the requirements of the existing rules, including but not limited to the use of brick or natural stone; uniformity of sign size, style, and color across the development; use of landscaping around a sign base; use of channel lettering; use of directional signs; greater spacing

between signs along street frontages; signage in locations to assist with direction in a location not on the lot of the existing business; incorporation of retaining walls for signage; or use of entry signs. In additions the narrative should establish an integrated architectural vocabulary and cohesive theme for the applicable single-use or multitenant development.

(e.) Permit Approval.

- (1.) Permit application shall be reviewed by the Administrator. Within ten (10) business days from the date of receipt of the application the Administrator shall verify the permit application is administratively complete and includes the application fee. An application that is not administratively complete shall not be processed.
 - (2.) Upon determination that the application is administratively complete, the Administrator may issue a master sign plan permit if the Administrator finds the application demonstrates that the master sign plan will:
 - a. result in a substantially improved, comprehensive, and unified use of signs within the applicable single or multi-tenant development, compared to what is allowed through strict compliance with the applicable rules and
 - b. provides for all signs to be architecturally integrated into or complimentary to the design of the buildings and character of the site, and use similar and coordinated design features, materials, and colors; and plans for multitenant developments provide for uniformity of signs.
 - (3.) Permit expiration. An approved permit shall expire and shall expire two (2) years from the date of approval if no progress has been made towards completion of the placement of signs pursuant to the master sign plan. If a master sign plan permit expires it is of no further force and effect and a new application shall be required to implement a master sign plan for that development.
- (f.) Authorized Deviation From Applicable Rules. The maximum deviation from the applicable rules that may be authorized under an approved master sign plan are as follows:
- (1.) Maximum sign height;
 - (2.) Number of signs;
 - (3.) Location of signs;
 - (4.) Inclusion of multiple multi-tenant signs; wall signs; pylon signs; and monument signs; and
 - (5.) Maximum sign area.

(g.) Prohibited Signs and Sign Elements.

- (1.) Except as otherwise authorized in this Section, signs and sign elements prohibited by the applicable rules are prohibited from inclusion in a master sign plan.
 - (2.) Nonconforming Signs. Existing non-conforming signs are not permitted within a development that is subject of master sign plan. A master sign permit issued for a development on which an existing non-conforming sign is located shall require that that the existing non-conforming sign be eliminated or brought into conformance with the standards of the approved master sign plan before the installation of any new signs under the approved master sign plan.
- (h.) Conditional Approval. In issuing a permit the Administrator may impose reasonable conditions on the master sign plan relating to the design, materials, locations, placements, or orientations, and

sign specifications; provided that such conditions are related to time, place and manner matters and does not attempted to regulate sign content. Reasonable conditions are conditions imposed on the master sign plan that promote the purpose of this section and the approval criteria set out in in this Section.

(i.) Amendment.

(1.) A valid master sign plan may be amended upon application by the permittee and approval by the Administrator. An amendment application may seek to alter the design, materials, locations, placements, orientations, and specifications of a sign or signs designated within an approved master sign plan; provided the amendment does not attempt to increase the area or height of any freestanding or wall sign subject to the original master sign program by more than ten percent (10%).

(2.) To request an amendment the permittee shall submit a completed master plan permit amendment application, on such form as provided by the Administrator, and a site plan and narrative as is required for a master sign plan permit. The Administrator shall review the request for administrative completeness and may issue a master plan amendment permit if the Administrator finds the proposed amendment advances the objectives of this Section and the approval criteria stated in this Section. the applicant may apply for. The City Manager or his/her designee may approve the amended master sign plan if it is consistent with this Section, and does not increase the area or height of any freestanding or wall sign subject to the original master sign program by more than ten percent (10%).

(j.) Other Permits. The issuance of a master sign plan permit shall not relieve the applicant from the requirements of the uniform codes, including permitting requirements required therein.

Section 24-92 to 24-95 Reserved

Article IX WIRELESS ANTENNAS AND ANTENNA FACILITIES

Section 24-96 Purpose.

(a.) The purpose of this article is to further an overall plan for the enhancement of public safety, consistent community development, preservation of property values and the general welfare of the city while providing for the communication needs of the residents and businesses in the city. The purpose of this article is to govern the placement of these facilities to:

(1.) Ensure that their location and use do not compromise the aesthetic quality of the community;

(2.) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;

(3.) Encourage operators of antenna facilities and antennas to locate them in areas where the adverse impact on the community is minimal;

(4.) Encourage co-location on both new and existing antenna facilities;

(5.) Encourage operators of antenna facilities and antennas to configure them in a way that minimizes the adverse visual impact through careful design, landscape screening, and innovative stealth techniques; and

- (6.) Enhance the ability of wireless telecommunication providers to provide services to the community effectively and efficiently.

Section 24-97 Definitions.

In this article the following definitions apply:

Alternative tower structure: Clock towers, steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. See also the definition of "Stealth facility."

Amateur radio antenna: A radio communication antenna used by a person holding an amateur station license from the Federal Communications Commission.

Antenna: A device used in communications, which transmits or receives radio signals, television signals, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Antenna, building attached: An antenna attached to an existing structure in two general forms: (1) roof-mounted, in which antennas are placed on the roofs of buildings, or (2) building-mounted, in which antennas are placed on the sides of buildings. These antennas can also be mounted on structures such as water tanks, billboards, church steeples, electrical transmission towers, etc.

Antenna facility: The antenna, mast, pole, structure, tower, building, equipment and other supporting material used to mount the antenna and equipment, equipment storage buildings and concealing or screening structures needed to operate an antenna.

Co-location: The act of locating wireless communications equipment for more than one telecommunications carrier on a single antenna facility.

Equipment storage building: An unmanned, single story equipment building or structure used to house telecommunications equipment necessary to operate the telecommunications network.

Monopole tower: A self-supporting tower facility composed of a single spire used to support telecommunication antennas. Monopole towers cannot have guy wires or bracing.

Preexisting towers and preexisting antennas: Any tower or antenna for which a building permit or special exception has been properly issued prior to the effective date of this article, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Satellite receive-only antenna: An antenna, one meter or less in diameter that enables the receipt of television signals transmitted directly from satellites to be viewed on a television monitor. Such antennas are commonly known as a satellite dish, television receive-only antenna, dish antenna, parabolic antenna, or satellite earth station antenna.

Satellite antenna: An antenna, greater than one meter in diameter, which enables the transmission of signals directly to and from satellites. Such antennas are commonly known as a satellite dish, dish antenna, parabolic antenna, or satellite earth station antenna.

Stealth facility: "Stealth" is a generic term describing a method that would hide or conceal an antenna, supporting electrical or mechanical equipment, or any other support structure that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible to the surrounding neighborhood. Stealth facilities may

include totally enclosed antennas, wireless facilities that replicate or duplicate the construction of common structures such as flagpoles, alternative tower structures, and camouflaged wireless facilities that are constructed to blend into the surrounding environment.

Telecommunications tower: Any structure that is designed and constructed for the purpose of supporting one or more antennae used for the provision of commercial wireless telecommunications services. This definition includes monopole towers, alternative mounting structures or any other vertical support used for wireless telecommunications antennae. This definition does not include commercial radio or television towers; nor does it include such things as satellite receive only antenna or amateur radio antennas.

Telecommunications tower facility: A facility that contains a telecommunications tower and equipment storage building or structure.

TV antenna: An antenna that enables the receipt of television signals transmitted from broadcast stations.

Section 24-98 Applicability/general regulations

The following regulations apply to all antenna facilities and antennas located within any district:

- (a.) Applicability: Except as specifically provided, all new telecommunications towers or antennas in the city shall be subject to the regulations contained in this article. Preexisting towers or antennas lawfully in existence at the time of the enactment of the ordinance from which this article derives shall not be required to meet the requirements of this article, other than those contained in sections 24-104 and 24-106 below:

Type of Facility	Building Permit Required	Special Exception Required
Satellite Receive Only < 1 meter	No	No
Satellite Antenna > 1 meter in Commercial Area	Yes	No
Satellite Antenna > 1 meter in Residential Area	Yes	Yes
Amateur Radio Antenna Complying with Height Limits	Yes	No
Amateur Radio Antenna Exceeding Height Limits	Yes	Yes
Television Antennas	No	No
Level 1 Stealth Facility in FC, UR, WC or DR District	Yes	No

Level 2 Stealth Facility in FC, UR or WC District	Yes	No
Level 2 Stealth Facility in DR District	Yes	Yes
Level 3 Stealth Facility in FC, UR or WC District	Yes	No
Level 3 Stealth Facility in DR District	Yes	Yes
Level 4 Stealth Facility in FC or UR District	Yes	No
Level 4 Stealth Facility in WC or DR District	Yes	Yes
Monopole Tower up to 120 Feet in Height in FC, UR or WC District	Yes	Yes
Monopole Towers In DR Districts or Over 120 Feet Tall	Prohibited	Prohibited

- (b.) Equipment storage building. An equipment storage building associated with an antenna facility or an antenna shall be screened and landscaped as described in other sections of this article, or be incorporated into the stealth treatment so that it is consistent and complementary with the existing structures and uses on the premises. All equipment storage buildings must only be constructed material approved for use by a national model code, published within the last three code cycles, applicable to the construction, renovation, maintenance, or other alteration of the equipment storage building.
- (c.) Driveway surfaces. All telecommunication tower facilities must have an access drive that is constructed of asphalt or concrete. One off-street parking space must be provided at each telecommunication tower facility.
- (d.) Lights. No outdoor lighting shall be allowed on any antenna facility except lights or lighting that is by required by the Federal Aviation Administration or the Federal Communications Commission.
- (e.) Antenna facility capacity: All new antenna Facilities must be structurally designed to allow for at least two sets of antennas.
- (f.) Tower types: Only monopole, alternative mounting structures or stealth towers are permitted in the city.
- (g.) Prohibited in easements. Antenna facilities shall not be placed in easements unless authorized by the easement holder.
- (h.) Construction standards. A building permit must be obtained prior to the construction or installation of any antenna facility. An antenna facility must be installed according to the manufacturer's

recommendations and under the seal of a professional engineer registered in the state. Additionally, all antenna facilities shall comply with applicable state and local building codes.

- (i.) Building codes/safety standards. To ensure the structural integrity of antenna facilities, the owner of an antenna facility must ensure that it is maintained in compliance with all provisions of the city's building code and zoning regulations. If upon inspection, the city concludes that an antenna facility fails to comply with such codes and regulations and/or constitutes a danger to persons or property, then upon written notice to the owner of the antenna facility, the owner shall have 30 days to bring such tower into compliance with applicable standards. Failure to bring such tower into compliance shall constitute grounds for the removal of the antenna facility at the owner's expense. This notice requirement shall not preclude immediate action by the building official as allowed by law if public safety requires such action.
- (j.) Contained on property. No part of an antenna facility, antennas, or other attachment may extend beyond the property lines or required building lines of the lot on which the antenna or antenna facility is located.
- (k.) State or federal requirements. All antenna facilities must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, and if the controlling state or federal agency mandates compliance, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency.
- (l.) Variance requirement. A variance granted by the board of adjustment is required for an antenna or antenna facility which will not comply with the requirements of this article unless otherwise specified herein.

Section 24-99 Amateur radio antenna and TV antennas.

Amateur radio antenna and TV antennas are allowed in any zoned district. Amateur radio antennas and TV antennas must comply with the following regulations:

- (a.) TV antennas.
 - (1.) Antenna location. TV antennas can only be located on a roof or in the back yard of a structure.
 - (2.) Number of facilities per lot. No more than one TV antenna is permitted on each lot.
 - (3.) Height limitations. A TV antenna can not extend more than eight feet above the maximum height limitation applicable for the zoning district.
 - (4.) Setbacks. TV antennas are not permitted within any required setback area.
- (b.) Amateur radio antennas.
 - (1.) Amateur radio antennas and associated antenna structures shall be the minimum height and size necessary to reasonably accommodate the operator's communication needs, in accordance with FCC regulations as set forth in FCC order "PRB-1" and section 97.15 of title 47 of the Code of Federal Regulations, and in accordance with V.T.C.A., Local Government Code § 250.002, or the respective successor sections thereto. An applicant for an amateur radio antenna and

associated antenna structure shall provide objective technical data to support the antenna height requested where such requested height exceeds the maximum height permitted by right in the zone.

- (2.) No portion of any amateur radio antenna, associated support structure, or related equipment shall overhang a property line that is not part of the subject site at any time.
- (3.) Retractable antenna structures shall be required for amateur radio antenna structures over 30 feet in height that are in or within 300 feet of any residential zoning district. At times when not in operation, the antenna structure may be required to be retracted to the lowest elevation possible in order to maintain a safe clearance above any nearby building, accessory structure, overhead utility, landscaping and/or any other site improvements.
- (4.) No amateur radio antenna or facility shall be sited or operated in such a manner that it creates at any time, either by itself or in combination with other wireless communication facilities, power densities in any inhabited area that exceed the FCC's maximum permissible exposure (MPE) limits for electric and magnetic field strength and power density for transmitters or any applicable more restrictive standard subsequently adopted by the city, county, state or federal government. Absolute compliance with FCC Office of Engineering Technology (OET) Bulletin 65 or any successor document thereto, is mandatory, and any violation shall be grounds for the city to immediately terminate any permit granted hereunder, or to order the immediate service termination of any non-complying facility within the city.
- (5.) At least one resident, tenant or property owner of the property shall be an amateur radio operator licensed by the FCC.
- (6.) The square footage area and winding loading of all antennas shall not exceed those maximums as specified by the manufacturer of the associated support structure.
- (7.) If at any time there is not a least one resident, tenant or property owner of the subject property licensed by the FCC as an amateur radio operator the city may require any antenna and associated support structure to be removed within 90 days.
 - a. Any antenna or associated support structure which exists on a property where at least one resident, tenant or property owner is a licensed by the FCC as an amateur radio operator is hereby declared a nuisance.
- (8.) All applicable usual city permit requirements and other applicable laws, ordinances and other regulations for antenna structures of this type shall apply.
- (9.) All manufacturers' safety and installation requirements shall be adhered to in the installation of any tower, antenna and boom.
- (10.) Any used associated support structures erected shall be inspected by a qualified engineer to ensure its structural integrity and a report shall be provided to city counsel by the inspecting engineer verifying its structural integrity.

Section 24-100 Satellite receive only antennas, less than one meter in diameter.

Satellite dish receiving antennas, two meter or less in diameter shall be permitted in the R-1, R-2A, R-2B, R-2C, R3, R-4, R-5, R-6, or any residentially zoned planned development district. Satellite receive only antenna must comply with the following regulations:

- (a.) Antenna location. Satellite receive only antenna less than one meter in diameter can only be located on a roof or in the back yard of a residence.
- (b.) Number of facilities per lot. No more than one satellite receive only antenna less than one meter in diameter is permitted on each lot.
- (c.) Height limitations. A satellite receive only Antenna less than one meter in diameter cannot extend more than eight feet above the maximum height limitation applicable for the zoning district.
- (d.) Setbacks. Satellite receive only antennas less than one meter in diameter are not permitted within any required setback area.

Section 24-101 Satellite antennas greater than one meter in diameter.

A satellite antenna greater than one meter in diameter is permitted is under the following conditions:

- (a.) Nonresidential zoning districts. Satellite antennas greater than one meter in diameter is an accessory use permitted by right in nonresidential zoning districts.
- (b.) Residential zoning districts. Satellite antennas greater than one meter in diameter are only allowed in residential zoning districts upon the approval of a special exception granted by the board of adjustment.
- (c.) Height. Satellite antennas greater than one meter in diameter shall not exceed ten feet in height above the base of their mount.
- (d.) Location. Satellite antennas greater than one meter in diameter cannot be erected in any required setback or in the front of residential structures.
- (e.) Screening. Satellite antennas greater than one meter in diameter that are mounted on the ground shall be screened from view from adjoining properties by solid fencing or evergreen plants to a height of at least six feet.

Section 24-102 Placement on antenna facilities.

This section does not apply to amateur radio, TV, and satellite receive-only antennas. For the purpose of determining the appropriate locations for the placement of antenna facilities, the city is divided into land use threshold areas that establish different regulations pertaining to height, location, and type of antenna facility. These land use thresholds are defined as follows:

- (a.) Full commercial ("FC"). Property within the I-1, I-2, B-2, B-2, B-3 districts.
- (b.) Undeveloped residential ("UR"). Property within R-1, R-2's, R3, R-4, R-5, R-6, or any residentially zoned Planned Development districts, that:
 - (1.) Is not a part of a recorded subdivision; or
 - (2.) Is a part of a recorded subdivision but has not had a building permit issued for a residential structure; and
 - (3.) Not located within the calculated limits of the developed residential ("DR") threshold.
- (c.) Wireless corridors ("WC"). Property within, and 150 feet either side of, the right-of-way of a freeway or a major or minor arterial roadway, as indicated on the city's thoroughfare plan.

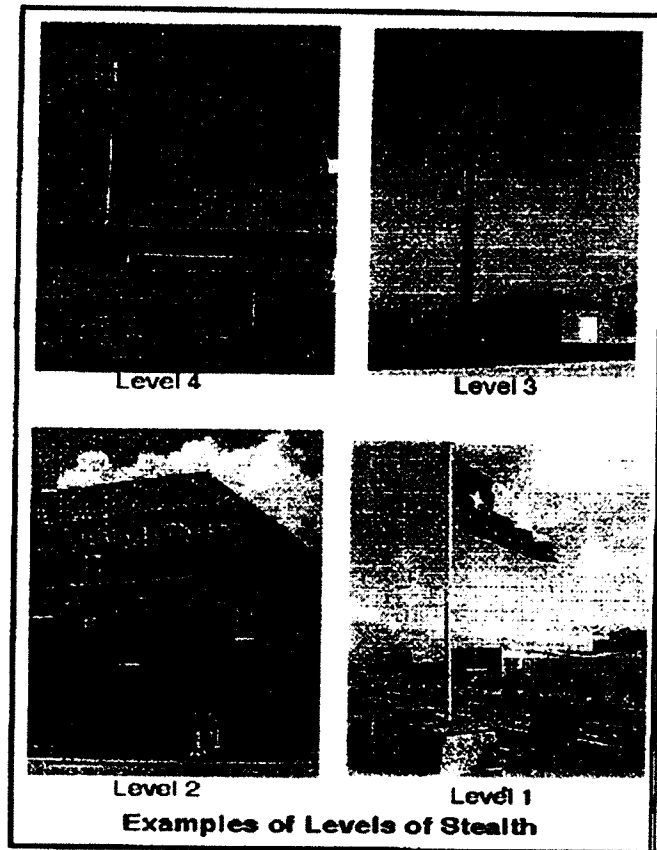
(d.) Developed residential ("DR"). Property within the R-1, R-2A, R-2B, R-2C, R-3, R-4 R-5 and R-6, or any residentially zoned planned development districts, which:

- (1.) Is a recorded subdivision that has had at least one building permit for a residential structure; or
- (2.) Is within 600 feet of areas described in subsection d.1 above.

Section 24-103 Antenna facility impact levels.

For the purpose of determining appropriate locations for antenna facilities, the city recognizes differing levels of impact for antenna facilities depending upon physical location, aesthetics, and land use compatibility. These antenna facility impact levels are described as follows:



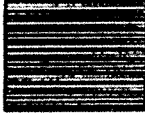
- (a.) Monopole. A monopole tower requires a special exception. The antenna equipment may not extend more than five feet above the highest point on the monopole.
- (b.) Level 4 stealth facility. The antenna on a level 4 stealth facility is located on an existing structure (other than a telecommunications tower) including, but not limited to, a building, water tower, utility tower, steeple, or light pole. The antenna is neither screened nor hidden. For the purpose of this level, a pole or tower may be reconstructed to structurally hold the antenna but the height of the structure can not be increased.
- (c.) Level 3 stealth facility. The antenna on a level 3 stealth facility is located on an existing structure (other than a telecommunications tower) including, but not limited to, a building, water tower, utility tower, steeple, or light pole. The antenna shall be aesthetically painted, constructed, or applied with material so that it is incorporated into the pattern, style, and material of the structure to effectively render the antenna unnoticeable. A new structure may be constructed to hold or house the antenna or equipment; however, the structure must be consistent with the overall architectural features of the primary buildings.
- (d.) Level 2 stealth facility. The antenna on a level 2 stealth facility is attached to the structure in such a manner that if it is seen it appears unrecognizable as an antenna, and the structure in which or on which the antenna is attached is an integral part of an overall development.
- (e.) Level 1 stealth facility. The antenna on a level 1 stealth facility is attached to the structure in such a manner that the antenna is completely unseen and the structure in which or on which the antenna is attached is an integral part of an overall development.



Section 24-104 Antenna facility siting matrix.

Antenna facilities shall be located in accordance with the following siting matrix. This matrix provides for areas where antenna facilities may be located as permitted uses, areas where they may be located with a special exception, and areas where they are prohibited.

Antenna Facility Siting Matrix

		Permitted Use		Requires a Special Exception		Prohibited
Monopole over 120 ft.						
Monopole up to 120 ft.						
Level 4 Stealth Facility						
Level 3 Stealth Facility						
Level 2 Stealth Facility						
Level 1 Stealth Facility						
	FC	UR	WC	DR		

Section 24-105 Special exception.

When a special exception is required by this article for the location of an antenna facility or an antenna, the applicant must submit an application in accordance with the procedure established in this article. Special exceptions to this article are granted by the board of adjustment in accordance with this article.

(a.) Application. In order to properly evaluate an application to locate an antenna facility or an antenna that requires a special exception, the applicant must provide:

- (1.) A completed special exception application and appropriate application fee.
- (2.) A narrative detailing the proposed antenna facility. The narrative must indicate the following:
 - a. Whether the proposed structure is a co-location, a new monopole tower or a new alternate mounting structure.
 - b. The height of the proposed tower.
 - c. Why the antenna facility is necessary at the proposed location.
 - d. The name(s) of the telecommunications providers or other users of the antenna or tower and describe the use to be made by each user;
 - e. Whether the applicant has made an effort to co-locate the facilities proposed for this antenna facility on existing antenna facilities in the same general area. Identify the location of these existing sites, and describe in detail these efforts and explain in detail why these existing sites were not feasible.

- f. Attach all studies or tests performed which demonstrate why the existing sites will not provide sufficient signal coverage.
 - g. Provide written documentation from existing sites' owners and/or operators which confirm the statements provided.
 - h. Indicate whether the existing sites allow/promote co-location and, if not, describe why not.
 - i. Whether co-location will be allowed to other telecommunications providers at the requested site. If they are not allowed, state every reason and the basis of each reason.
- (3.) Provide a site plan of the proposed antenna facility at a scale of 1" = 30'. The site plan should be on a single 24" x 36" sheet and include:
- a. A survey and legal description of the proposed antenna facility;
 - b. A detail on how access to the site is to be achieved;
 - c. A plan view layout of the proposed antenna facility clearly showing:
 - d. The location of the facility,
 - e. All equipment and structures in the proposed antenna facility,
 - f. The required off-street parking space,
 - g. Distances to property lines,
 - h. Required setbacks,
 - i. Adjacent land uses and zoning designations,
 - j. Existing structures on the site,
 - k. Required landscaping or screening of the base of the tower,
 - l. All recorded and proposed easements, and
 - m. Natural features, such as water courses and trees.
- (4.) Elevation drawings showing:
- a. The design and height of the proposed antenna facility,
 - b. Detailed drawings of all structures and equipment,
 - c. Screening requirements,
 - d. All requirements specified in wireless antenna facility special exception request site plan check list.
- (5.) If the requested location is in a residential district the applicant must provide evidence that they have made an effort to locate the facility in a nonresidential district. Identify the location of these nonresidential district sites, describe in detail these efforts, and explain in detail why these nonresidential sites were not feasible. Attach all studies or tests performed which demonstrate why the nonresidential sites will not provide sufficient signal coverage.
- (6.) Provide a map showing the proposed provider's current coverage area for the city. The map must show the roadway network and be labeled. The applicant must also provide propagation analysis showing the areas the proposed provider's existing antenna currently covers, the areas

the applicant's existing sites and the requested site would cover. The propagation analysis must be labeled and have a legend.

(7.) Describe the applicant's master antenna facilities plan for the city. Attach maps and other related documentation. Provide information indicating each phase of the plan.

(b.) Consideration of application. In considering whether to grant a special exception, the board of adjustment shall consider the following:

- (1.) The appropriateness of the location and design of the antenna facility;
- (2.) The potential for interference with the enjoyment of the use surrounding properties;
- (3.) Aesthetics; impact, including but not limited to, the surrounding topography, surrounding tree coverage and foliage; proposed buffering; and the design of the antenna facility, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (4.) The proposed height of the antenna facility relative to surrounding structures;
- (5.) The zoning district and the adjoining zoning districts of the property for which special exception is sought;
- (6.) The compliance with the city's regulations; and
- (7.) The availability of suitable alternative sites. Suitable alternative site(s) shall mean a location or locations that would provide the same or better signal coverage than the proposed site for which a special exception is requested. The applicant shall provide documentation supporting his contention that alternative site(s) are not suitable and/or available.

(c.) Application fees. The application fee for consideration of a special exception under this article shall be in accordance with the city's fee schedule and the actual engineering expenses expended by the city in review of the applicable application.

(d.) Procedures for consideration of special exception. The procedures for consideration of an application for a special exception requested under this section of the ordinance shall be the same as those procedures for a request of a special exception under Article XII of this ordinance.

Section 24-106 Written report

Denial of an application for a special exception under this article must be documented in writing.

Section 24-107 Appeal

An applicant may appeal the decision of the board of adjustment to the district court by filing a written notice of appeal within ten days following the date the administrator notifies the applicant of his decision. A decision not timely appealed in accordance with this article shall be final.

Section 24-108 to 24-110 Reserved

Article X NONCONFORMING USES

Section 24-111 Continuance of use.

- (a.) Any nonconforming use of land or structures may be continued for definite periods of time, subject to such regulations as the board of adjustment may require for immediate preservation of the adjoining property and the ultimate removal of the nonconforming use. If, however, a continuous operation is not carried on in such nonconforming use during a continuous period of one (1) year, the building, other structure or tract of land where nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume activity operation shall not affect the foregoing.

Section 24-112 Change of use.

- (a.) A nonconforming use may be changed to any conforming use. A nonconforming use shall not be changed to any other type of nonconforming use without the prior approval of the board of adjustment which may grant a change of occupancy from one nonconforming use to another, provided the use is within the same or higher classification as the original nonconforming use, that such nonconforming use and occupancy will not tend to prolong and continue nonconforming use. A nonconforming use once changed from a lower to a higher classification use shall not be changed thereafter to a lower classification use, and such prior lower classification use shall be considered abandoned.

Section 24-113 Damage and destruction.

- (a.) A nonconforming use shall not be extended or rebuilt in case of obsolescence or total destruction by fire or other cause. In the case of partial destruction by fire or other causes not exceeding fifty (50) percent of its value, the building inspector shall issue a permit for reconstruction. If greater than fifty (50) percent and less than total, the board of adjustment may grant permit for repair after public hearing and having due regard for the property rights of the persons affected when considered in the light of public welfare and the areas surrounding the designated nonconforming use. The value of the structure is established by the appraisal district valuation or an independent appraisal provided by the applicant.

Section 24-114 Enlargement.

- (a.) A nonconforming use shall not be enlarged or extended, except upon authorization of the board of adjustment.

Section 24-115 Normal maintenance.

- (a.) Normal maintenance of a building or a structure containing a nonconforming use is permitted, including necessary non-structural repairs and incidental alterations not extending the nonconforming use.

Section 24-116 Structural changes.

- (a.) No structural alteration shall be made in a building or other structure containing a non-conforming use except that required by law.

Section 24-117 to 24-120 Reserved

Article XI BOARDS AND COMMISSIONS

Section 24-121 Planning and zoning commission

(a.) Created; purposes. A planning and zoning commission is hereby created in order to accomplish the following:

- (1.) To identify community needs and to advise the city council of their short-range and long-range implications for the total development of the city;
- (2.) To recommend achievable community goals as a basis for long-range planning and development programs;
- (3.) To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals; and
- (4.) To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accompanied in harmony with public needs and policies.

(b.) Composition; qualifications of members.

- (1.) The planning and zoning commission shall be composed of five regular members and at least two but no more than four alternate members who are qualified electors of the city. Appointment of both regular and alternate members will be for two-year periods. The city council will appoint to the commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgement, interest in planning and zoning, and availability to prepare for and attend meetings.

(c.) Terms; filling vacancies; removal of members.

- (1.) The term of two of the regular members and two alternates of the commission created by this article will expire on October first of each odd-numbered year and the terms of three of the regular members and two alternate members shall expire on October first of each even-numbered year. Alternate members are required to attend commission meetings, and in the absence of a regular member, the chairman will appoint an alternate to be a voting member for that session of the commission. Commission members may be appointed to succeed themselves and alternate members may be appointed to fill vacancies for unexpired terms, but, no member shall be appointed for a term in excess of two years. Newly appointed members and alternates will be installed at the first regular commission meeting after their appointment. The planning and zoning commission serves at the pleasure of city council and the city council may remove any member or alternate from the commission upon a majority vote for any reason.

(d.) Organization.

- (1.) The commission shall hold an organizational meeting in October of each year and shall elect a chairperson and vice-chairperson from among its members before proceeding to any other matters of business. No member currently serving as chairperson or vice-chairperson shall be nominated or serve more than two successive one-year terms. The commission shall elect a secretary and such other officers as it deems necessary either from its membership or from staff representatives assigned by the chief executive of the city to work with the commission. The commission shall adopt its own rules of procedure and keep a record of its proceedings

consistent with the provisions of this article and the requirements of applicable state statutes. Regular meetings shall be held as determined by the commission.

(e.) Powers and duties. The planning and zoning commission is hereby charged with the duty and invested with the authority to:

(1.) Review and make a recommendation to the city council on the following applications:

- a. Amendment to the comprehensive land plan
- b. Establish or amend a zoning district map classification, including creation or amendment of an overlay district;
- c. Rezoning requests including an application for a Specific Use Permit.
- d. Amendment to the zoning and subdivision ordinances

(2.) Have final approval authority on the following subdivision applications:

- a. Subdivision Master Plan;
- b. Preliminary Plat;
- c. Final Plat;
- d. Amending plat if forwarded by the City Manager or his/her designee;
- e. Minor plat if forwarded by the City Manager or his/her designee; and
- f. Replat.

(3.) Hear and decide on plat waiver requests under Chapter 21- Subdivisions

(4.) Hear and decide on an appeal related to tree preservation removal permits.

(5.) May serve in an advisory capacity on any planning related item(s) in the City as requested by the city council;

(6.) Consider and make recommendations on other matters as requested by the city council;

(f.) Quorum; attendance; compensation.

(1.) A quorum for the conduct of business shall consist of three members of the commission created by this article. The members of the commission shall regularly attend meetings and public hearings of the commission and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.

Section 24-122 Board of adjustment

(a.) Appointment and service.

(1.) Appointment. The Board of Adjustment of the City of Live Oak shall consist of at least five regular members and at least two but no more than four alternate members who are qualified electors of the city. Appointment of both regular and alternate members will be for two-year periods. Appointments shall be consistent with state law and Live Oak city council procedures. Terms shall begin and end in September.

(2.) Removal. Removal may only be for cause, as found by the city council, on a written charge after a public hearing.

(3.) Vacancies. A vacancy on the board shall be filled for the expired term based on appointments of the city council.

(4.) All Board of Adjustment meetings shall be open to the public and subject to the Texas Open Meetings and Public Information Acts.

(b.) Authority of the board.

(1.) Hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this zoning ordinance;

(2.) hear and decide special exceptions to the terms of a zoning ordinance when the ordinance requires the board to do so

(3.) authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done;

(4.) hear and decide variance to the terms of Article VIII Signs when the ordinance requires the board to do so;

(5.) hear and decide requests for exemptions from the local restrictions of Sec.24-49(b) when the ordinance requires the board to do so; and

(6.) hear and decide other matters authorized by this zoning ordinance.

(c.) Jurisdiction and hearing.

(1.) Jurisdiction. When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the Board of Adjustment may, in specific cases after public notice and public hearing, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance and in accordance with any applicable rules contained in the ordinance. The Board of Adjustment shall not permit any variations or exception if the applicant has contributed to the cause of the unnecessary hardship of which he complains.

(2.) Hearing requirements.

a. Each case before the Board of Adjustment must be heard by at least 75 percent of the members.

b. The board by majority vote shall adopt rules in accordance with any zoning ordinance.

c. Meetings of the board are held at the call of the presiding officer and at other times as determined by the board. The presiding officer or acting presiding officer may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.

d. The board shall keep minutes of its proceedings that indicate the vote of each member on each question or the fact that a member is absent or fails to vote. The board shall keep records of its examinations and other official actions. The minutes and records shall be filed immediately in the board's office and are public records.

(3.) Who may appeal to the board. Except for a member of the Live Oak City Council who serves on the Board of Adjustment, the following persons may appeal to the board: (a) a person aggrieved

by a decision made by an administrative official (i.e. Building Inspector); or (b) any officer, department, board, or bureau of the municipality affected by the decision.

- (4.) Requirements to appeal to the board. The appellant must file with the board and the official from whom the appeal is taken a notice of appeal specifying the grounds for the appeal. The appeal must be filed within a reasonable time as determined by the rules of the board. On receiving the notice, the official from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record of the action that is appealed.
- (5.) Stay. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.
- (6.) Setting hearing. The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney. The board shall decide the appeal within a reasonable time.
- (7.) Scope of authority.
 - a. In exercising its authority under subsection b above, the board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the board has the same authority as the administrative official.
 - b. The concurring vote of 75 percent of the members of the board is necessary to:
 - i. reverse an order, requirement, decision, or determination of an administrative official;
 - ii. decide in favor of an applicant on a matter on which the board is required to pass under a zoning ordinance;
 - iii. authorize a special exception from the terms of a zoning ordinance; or
 - iv. authorize a variation from the terms of a zoning ordinance.

(d.) Court appeal.

- (1.) Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment or any taxpayer, or any officer, department, board, or bureau of the city may present to a court of record as provided by law a petition, duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board.

Section 24-123 Tree care board

(a.) Tree care board.

- (1.) Board membership. The tree care board shall consist of the members of the parks and recreation commission.

(2.) Meetings. The board shall meet as needed. All stated meetings shall be open to the public. The board chairman may schedule additional meetings as needed.

(3.) Duties. The duties of the tree care board shall include:

- a. To review the tree management plan, tree preservation and mitigation guidelines, and the tree care program as may be necessary.
- b. To promote the protection of healthy trees and provide guidelines for the replacement and/or replanting of trees.
- c. To uphold rules and regulations governing the protection and preservation of native or established trees within the city, which provide for purification of air and water, provide for shade, windbreaks and the cooling of air, provide for open space and more efficient drainage of land, thus reducing the effects on soil erosion.
- d. To study, investigate, counsel and develop and/or update periodically a written plan for the care, preservation, pruning, planting, replanting, removal or disposal of public trees and shrubs on city property.
- e. To review and recommend specific beautification projects and public awareness programs to the parks and recreation department, city manager and/or city council as may be appropriate.
- f. Coordinating and promoting Arbor Day activities.
- g. Submitting the annual application to renew the Tree City USA designation.

(b.) Tree care program.

(1.) Program created. There is hereby created and established a tree care program to provide full power and authority over the care of all trees, plants and shrubs located within public rights-of-ways, parks and public places and aids in the proper growth of a landscape program to enhance the beauty of the city.

(2.) Care of public trees.

- a. The city manager or his/her designees shall have the responsibility, to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares, parks, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. This shall include the removal of trees that may threaten electrical, telephone, gas, or any municipal water or sewer line, or any tree that is affected by fungus, insect, or other pest disease.
- b. Every owner of any tree or shrub overhanging any street or right-of-way within the city shall, in accordance to the city pruning guidelines, prune the branches so that such branches shall not severely obstruct the light from any street lamp or obstruct the view of any street intersection; will not obstruct the passage of pedestrians on sidewalks; will not obstruct vision of traffic signs; and will not obstruct the view of any street or alley intersection, and as provided in section 20-3 of this Code.
- c. No person shall remove, destroy, or cause the removal or destruction of a tree on city property or in any city park without first having obtained written permission for such removal or destruction from the city manager or his/her designee.

- d. It shall be unlawful for any person, firm or corporation to attach any cable, wire, rope sign or any object to any city tree, plant or shrub without written permission from the city manager or his/her designee.

Section 24-124 to 24-130 Reserved

Article XII ADMINISTRATION AND PROCEDURES

Section 24-131 Administrative provisions

- (a.) The city shall charge fees associated with planning and zoning applications for zoning, platting and other miscellaneous fees in accordance with the fee schedule adopted by the city council and as amended from time to time as necessary.

Section 24-132 Annexation

- (a.) Annexation may be voluntary or involuntary and shall be required to meet all requirements of the LGC, Local Government Code for each type of annexation. The provisions of this section apply to any request for voluntary annexation by a property owner wishing to extend the corporate limits of the City to incorporate property adjacent to the City's existing municipal boundaries.
- (b.) Application requirements.
 - (1.) Application Required. A request for annexation shall be accompanied by an application prepared in accordance with the city's development manual.
 - (2.) Accompanying Applications. Any request for annexation shall be accompanied by an application to establish the initial zoning on the property. An application to establish the zoning may be considered at the same meeting as the annexation request so long as the ordinance providing for annexation is acted on prior to any action on the zoning request.
- (c.) Processing of application and decision
 - (1.) Submittal. An application for voluntary annexation shall be submitted to the city manager or his/her designee. The city manager or his/her designee shall review the application for completeness. The city manager or his/her designee may, at its option, request a recommendation from any other city department or consultant. The city manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the city manager or his/her designee shall forward a written recommendation to the city council for consideration.
 - (2.) Written agreement regarding services. The city manager or his/her designee shall prepare an annexation service plan in accordance with Local Government Code ch. 43 subchapter C-3. The agreement must include:
 - a. a list of each service the city will provide on the effective date of the annexation; and
 - b. a schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation.

- c. The service plan shall be executed prior to adoption of an ordinance annexing the subject area.
- (3.) Acceptance of annexation petition. The city manager or his/her designee shall prepare a resolution to present to city council accepting the petition for voluntary annexation. The city council may approve or deny the resolution. Approval of the resolution does shall a
- (4.) Notification requirements. An application for voluntary annexation requires public hearing notice in accordance with Local Government Code Ch. 43 subchapter C-3 and shall include the following:
 - a. Website notice published to the city's website at least eleven (11) days prior to the public hearing but not more than twenty (20) days prior to the public hearing.
 - b. Published notice in a newspaper of general circulation at least eleven (11) days prior to the public hearing but not more than (20) days prior to the public hearing.
 - c. Public hearing notice shall include the date, time, place, and topic of the public hearing.
- (5.) Decision by city council. The city council shall hold a public hearing and may approve or deny the request for voluntary annexation in accordance with Local Government Code ch. 43 subchapter C-3.
- (6.) Other Procedures Applicable. A request for annexation is subject to all applicable rules and procedures required by State law. In the event of a conflict between the requirements of this ordinance and State law, the requirements of State law shall apply.

Section 24-133 Comprehensive land plan amendment

- (a.) Applicability. The Comprehensive Land Plan of the city reflects the long-term plan for growth and development of the city. The city council may, from time to time, on its own motion, by request of the city manager or his/her designee or by application from a property owner, amend, supplement, change, modify or repeal the text of the Comprehensive Land Plan or may amend the boundaries shown on the Future Land Use Map, Master Thoroughfare Plan or any other applicable maps contained in the Comprehensive Land Plan. Approved amendments to the Comprehensive Land Plan authorize a property owner to submit subsequent development applications consistent with the amendment.
- (b.) Application requirements.
 - (1.) Application Required. Any request for an amendment to the Comprehensive Land Plan shall be accompanied by an application prepared in accordance with the city's development manual.
 - (2.) Accompanying Applications. Any request for amendment of the Future Land Use Map submitted by a property owner may be accompanied by an application for a zoning change consistent with requested Future Land Use Map amendment for land within the city limits, or by a subdivision master plan, for land within the ETJ. Approval of an amendment to the Comprehensive Land Plan shall require all subsequent development applications to be consistent with the approved amendments.
- (c.) Processing of application and decision.
 - (1.) Submittal. An application for an amendment to the Comprehensive Land Plan shall be submitted to the city manager or his/her designee. The city manager or his/her designee shall review the

application for completeness. The city manager or his/her designee may, at its option, request a recommendation from any other city department or consultant. The city manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the city manager or his/her designee shall forward a written recommendation to the planning and zoning commission and city council for consideration.

(2.) Notification requirements. An application for an amendment to the Comprehensive Land Plan requires the following public hearing notification:

- a. Written notice mailed to each owner of real property within two hundred (200) feet, as indicated by the most recently approved municipal tax roll, at least eleven (11) days prior to the public hearing and consideration by the planning and zoning commission.
- b. Published notice in a newspaper of general circulation at least sixteen (16) days prior to the public hearing and consideration by the city council.
- c. Public hearing notices shall be in accordance with Texas Local Government Code Ch. 211 and include the date, time, place, and topic of the public hearing.

(3.) Recommendation by planning and zoning commission.

- a. The planning and zoning commission shall hold a public hearing in accordance with the Texas Open Meetings Act and make a recommendation regarding the proposed PUD request to the city council.
- b. The planning and zoning commission may vote to recommend to city council approval, approval with conditions, or denial of the request.

(4.) Decision by city council.

- a. The city council shall receive the written recommendation of the planning and zoning commission and shall hold a public hearing.
- b. The city council may vote to approve, approve with conditions, or deny the request. The city council may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than ninety (90) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.

(d.) Criteria for approval. The planning and zoning commission, in making its recommendation, and the city council, in considering final action on an amendment to the Comprehensive Land Plan, should consider the following criteria:

- (1.) The proposed amendment promotes the health, safety, or general welfare of the City and the safe, orderly, efficient and healthful development of the city;
- (2.) An amendment to the text is consistent with other policies of the Comprehensive Land Plan, taking into account the nature of any proposed map amendment associated with the text amendment;
- (3.) An amendment to the Future Land Use Map, Master Thoroughfare Plan or any other applicable maps contained in the Comprehensive Land Plan is consistent with the policies of the Comprehensive Land Plan that apply to the map being amended, taking into account the nature of any proposed land use associated with the map amendment;

- (4.) Any proposed amendment is consistent with the goals and objectives of the Comprehensive Land Plan;
- (5.) Any proposed amendment addresses circumstances that have changed since the last time the plan map or text was considered, implements plan policies better than the current plan map or text corrects a mapping error or addresses a deficiency in the plan; and
- (6.) Other criteria which, at the discretion of the Planning and Zoning Commission and City Council, are deemed relevant and important in the consideration of the amendment.

Section 24-134 Zoning text amendments

(a.) Statement of intent

- (1.) For the purpose of establishing and maintaining sound, stable, and desirable development within the territorial limits of the city, this ordinance shall not be amended except to correct an error in the ordinance, or because of changed or changing conditions in particular areas or in the city generally, change the regulations and restrictions herein, all in accordance with the comprehensive plan.

(b.) Authority.

- (1.) The city council in accordance with applicable state law may from time to time amend, supplement, change, modify or repeal the regulation standards and boundaries herein established. In addition, a comprehensive review of the zoning ordinance text and map shall be made by the planning and zoning commission for the purpose of keeping the city current with development patterns and innovative methods in zoning and examining existing land uses and changes in land uses made by developers and builders within the city in order to ascertain those areas, where the patterns of development are changing. The planning and zoning commission, at least every three (3) years shall file a report and recommendation thereon with the mayor and city council. The three (3) year time period shall commence upon the date of the adoption of this ordinance.

(c.) Applicability.

- (1.) The following persons may initiate a zoning text amendment:
 - a. City council on its own motion
 - b. The planning and zoning commission
 - c. The city manager or his/her designee

(d.) Processing and decision.

- (1.) Notification requirements. A zoning text amendment requires the following public hearing notification:
 - a. Written notice mailed to each owner of real property affected by the proposed zoning text amendment and each owner of real property within two hundred (200) feet of the affected areas, as indicated by the most recently approved municipal tax roll, at least eleven (11) days prior to the public hearing and consideration by the planning and zoning commission.
 - b. Published notice in a newspaper of general circulation at least sixteen (16) days prior to the public hearing and consideration by the city council.

- c. Public hearing notices shall be in accordance with Texas Local Government Code Ch. 211 and include the date, time, place, and topic of the public hearing.

(2.) Recommendation by planning and zoning commission.

- a. The planning and zoning commission shall hold a public hearing in accordance with the Texas Open Meetings Act and make a recommendation regarding the proposed amendment to the city council.
- b. The planning and zoning commission may vote to recommend to city council approval, approval with conditions, or denial of the amendment.

(3.) Decision by city council.

- a. The city council shall receive the written recommendation of the planning and zoning commission and shall hold a public hearing.
- b. The city council may vote to approve, approve with conditions, or deny the amendment. The city council may, on its own motion, postpone consideration of the amendment to a certain date in the future in order to review additional information or modifications which may have a direct bearing on the final decision.
- c. A majority vote of city council, present and qualified, is required to approve a zoning text amendment unless it is protested in accordance with the provisions below.

(4.) Protested zoning text amendment.

- a. A proposed zoning text amendment may be protested in writing by owners of at least twenty percent (20%) of either:
 - i. The area of lots or land covered by the proposed amendment; or
 - ii. The area of lots or land immediately adjoining the area covered by the proposed amendment and extending two hundred (200) feet from that area.
 - iii. In computing the percentage of land area, the area of streets and alleys shall be included.
- b. Zoning text amendments protested in accordance with the above provisions require the affirmative vote of at least three-fourths (3/4) of all members of the city council, present and qualified, to approve.

(e.) Criteria for approval. The planning and zoning commission in making a recommendation and the city council in considering final action on a zoning change should consider the following criteria:

- (1.) The proposed amendment promotes the health, safety, or general welfare of the city and the safe, orderly, efficient and healthful development of the city;
- (2.) The amendment to the text is consistent with comprehensive land plan;
- (3.) The amendment is consistent with the goals and objectives of this chapter and the city; and
- (4.) Other criteria which, at the discretion of the planning and zoning commission and the city council, are deemed relevant and important in the consideration of the amendment.

Section 24-135 Zoning classification changes (rezoning)

(a.) Statement of intent.

- (1.) For the purpose of this section is to establish a procedure for rezoning an area or extending the boundary of an existing zoning district in accordance with the comprehensive plan.

(b.) Authority.

- (1.) The city council in accordance with applicable state law may from time to time amend, supplement, change, modify or repeal the regulation standards and boundaries herein established.

(c.) Applicability.

- (1.) The following persons may initiate a zoning classification change:
 - a. City council on its own motion
 - b. The planning and zoning commission
 - c. The city manager or his/her designee
 - d. A property owner

(d.) Application requirements.

- (1.) Application Required. Any request for a change in zoning classification (rezoning) shall be accompanied by an application prepared in accordance with the city's development manual. Requests by the city council, planning and zoning commission, and city manager or his/her designee shall not require an application.

(e.) Processing of application and decision.

- (1.) Submittal. An application for a change in zoning classification (rezoning) shall be submitted to the city manager or his/her designee. The city manager or his/her designee shall review the application for completeness. The city manager or his/her designee may, at its option, request a recommendation from any other city department or consultant. The city manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the city manager or his/her designee shall forward a written recommendation to the planning and zoning commission and city council for consideration.
- (2.) Notification requirements. An application for a change in zoning classification (rezoning) requires the following public hearing notification:
 - a. Written notice mailed to each owner of real property within two hundred (200) feet, as indicated by the most recently approved municipal tax roll, at least eleven (11) days prior to the public hearing and consideration by the planning and zoning commission.
 - b. Published notice in a newspaper of general circulation at least sixteen (16) days prior to the public hearing and consideration by the city council.
 - c. Public hearing notices shall be in accordance with Texas Local Government Code Ch. 211 and include the date, time, place, and topic of the public hearing.
- (3.) Recommendation by planning and zoning commission.

- a. The planning and zoning commission shall hold a public hearing in accordance with the Texas Open Meetings Act and make a recommendation regarding the proposed request to the city council.
- b. The planning and zoning commission may vote to recommend to city council approval, approval with conditions, or denial of the request.

(4.) Decision by city council.

- a. The city council shall receive the written recommendation of the planning and zoning commission and shall hold a public hearing.
- b. The city council may vote to approve, approve with conditions, or deny the request. The city council may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than ninety (90) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
- c. A majority vote of city council, present and qualified, is required to approve a zoning change request unless it is protested in accordance with the provisions below.

(5.) Protested zoning change.

- a. A proposed zoning change may be protested in writing by owners of at least twenty percent (20%) of either:
 - i. The area of lots or land covered by the proposed change; or
 - ii. The area of lots or land immediately adjoining the area covered by the proposed change and extending two hundred (200) feet from that area.
 - iii. In computing the percentage of land area, the area of streets and alleys shall be included.
- b. Zoning changes protested in accordance with the above provisions require the affirmative vote of at least three-fourths (3/4) of all members of the city council, present and qualified, to approve.

(f.) Criteria for approval. The planning and zoning commission in making a recommendation and the city council in considering final action on a zoning change should consider the following criteria:

- (1.) Whether the proposed zoning change implements the policies of the adopted comprehensive land plan, including the land use classification of the property on the future land use map;
- (2.) Whether the proposed zoning change promotes the health, safety, or general welfare of the city and the safe, orderly, efficient and healthful development of the city;
- (3.) Whether the uses permitted by the proposed change in zoning district classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified;
- (4.) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers or other public services and utilities to the area;
- (5.) Whether there have been environmental and/or economical changes which warrant the requested change;

- (6.) Whether there is an error in the original zoning of the property for which a change is requested;
 - (7.) Whether all of the applicant's back taxes owed to the city have been paid in full (no application will receive final approval until all back taxes are paid in full); and,
 - (8.) Whether other criteria are met, which, at the discretion of the planning and zoning commission and the city council, are deemed relevant and important in the consideration of the amendment.
- (g.) Time limitations. If a petition for rezoning is denied by the city council, another petition for reclassification of the same property or any portion thereof shall not be filed within a period of one hundred and eighty (180) days from the date of denial provided, however, that:
- (1.) Substantial change in conditions has taken place in the vicinity of the property sought to be rezoned. For the purpose of this section, a request may be considered substantially different if the change is to a different zoning classification, there is a change in conditions relating to zoning principles of the property or surrounding properties or there is a change in the nature of the development of the property or surrounding properties. The city manager or his/her designee shall have the authority to determine whether the request is substantially different from the initial request.
 - (2.) The applicant applying for rezoning seeks different relief.
 - (3.) The last final decision denying rezoning was predicated upon fraud, accident or mistake.

Section 24-136 Reserved

Section 24-137 Specific use permits (SUP)

- (a.) Applicability. Specific Use Permits allow for discretionary city council approval of uses with unique or widely varying operating characteristics or unusual site development features, subject to the terms and conditions set forth in this UDC. These uses and the districts where they may be located are listed in Schedule of Uses table. Approval of a Specific Use Permit authorizes a property owner to submit subsequent development applications consistent with the approved SUP.
- (b.) Application requirements.
 - (1.) Application Required. Any request for a SUP shall be accompanied by an application prepared in accordance with the city's development manual.
- (c.) Processing of application and decision.
 - (1.) Submittal. An application for a SUP shall be submitted to the city manager or his/her designee. The city manager or his/her designee shall review the application for completeness. The city manager or his/her designee may, at its option, request a recommendation from any other city department or consultant. The city manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the city manager or his/her designee shall forward a written recommendation to the planning and zoning commission and city council for consideration.
 - (2.) Notification requirements. An application for a SUP requires the following public hearing notification:

- a. Written notice mailed to each owner of real property within two hundred (200) feet, as indicated by the most recently approved municipal tax roll, at least eleven (11) days prior to the public hearing and consideration by the planning and zoning commission.
 - b. Published notice in a newspaper of general circulation at least sixteen (16) days prior to the public hearing and consideration by the city council.
 - c. Public hearing notices shall be in accordance with Texas Local Government Code Ch. 211 and include the date, time, place, and topic of the public hearing.
- (3.) Recommendation by planning and zoning commission.
- a. The planning and zoning commission shall hold a public hearing in accordance with the Texas Open Meetings Act and make a recommendation regarding the proposed SUP request to the city council.
 - b. The planning and zoning commission may vote to recommend to city council approval, approval with conditions, or denial of the request.
- (4.) Decision by city council.
- a. The city council shall receive the written recommendation of the planning and zoning commission and shall hold a public hearing.
 - b. The city council may vote to approve, approve with conditions, or deny the request. The city council may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than ninety (90) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
- (d.) Criteria for approval. The planning and zoning commission in making a recommendation and the city council in considering final action on a SUP should consider the following criteria:
- (1.) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Land Plan;
 - (2.) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
 - (3.) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as safety, traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;
 - (4.) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
 - (5.) The proposed use incorporates 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;
 - (6.) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed use on adjacent properties;

- (7.) The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood;
- (8.) The proposed use promotes the health, safety or general welfare of the city and the safe, orderly, efficient and healthful development of the city;
- (9.) No application made under these provisions will receive final approval until all back taxes owed to the city have been paid in full; and
- (10.) Other criteria which, at the discretion of the planning and zoning commission and city council are deemed relevant and important in the consideration of the specific use permit.

- (e.) Conditions. The planning and zoning commission, in making its recommendation, and the city council, in considering final action, may require such modifications in the proposed use and attach such conditions to the specific use permit as deemed necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation.
- (f.) Expiration of Specific Use Permit. A Specific Use Permit shall expire if any of the following occurs:
 - (1.) A building permit, if necessary, for the use has not been approved within one (1) year after the approval of the SUP;
 - (2.) A building permit approved as a result of the approval of the SUP expires within two (2) years after the approval of the SUP;
 - (3.) The use has been abandoned or discontinued for a period of time exceeding six (6) months; or
 - (4.) The SUP expires in accordance with its terms.

Section 24-138 Variances

(a.) Applicability.

- (1.) The Board of Adjustment (BOA) shall have the ability to authorize, in specific cases, a variance from the zoning regulations of this ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, so that the spirit of this ordinance is observed and substantial justice is done. A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss, nor shall it permit any person a privilege in developing a parcel of land not permitted by this ordinance to other parcels of land in the district.

(b.) Application requirements.

- (1.) Application Required. Any request for a variance shall be accompanied by an application prepared in accordance with the city's development manual.

(c.) Processing of application and decision.

- (1.) Submittal. An application for a variance shall be submitted to the city manager or his/her designee. The city manager or his/her designee shall review the application for completeness. The city manager or his/her designee may, at its option, request a recommendation from any other city department or consultant. The city manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a recommendation on the application. After appropriate review, the city manager or his/her designee shall forward a written recommendation to the board of adjustment.
- (2.) Notification requirements. An application for a variance requires the following public hearing notification:
 - a. Written notice mailed to each owner of real property within two hundred (200) feet, as indicated by the most recently approved municipal tax roll, at least eleven (11) days prior to the public hearing and consideration by the board of adjustment.
 - b. Published notice in a newspaper of general circulation at least sixteen (16) days prior to the public hearing and consideration by the board of adjustment.
 - c. Public hearing notices shall include the date, time, place, and topic of the public hearing.
- (3.) Decision by the board of adjustment.
 - a. The BOA shall receive the recommendation of the city manager or his/her designee and shall hold a public hearing. The Board may vote to approve, approve with conditions, or deny the variance.
 - b. The board may, on its own motion or by request of the property owner, postpone consideration of the variance to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
 - c. Approval of a variance request shall require the concurring vote of seventy-five percent (75%) of the members of the board.
 - d. The approval shall be effective for a period of one-hundred eighty (180) days after the date of such approval. If no development application or building permit is submitted within that time, the variance shall become null and void.
 - e. The disapproval of a variance shall require compliance by the applicant, if applicable, within fifteen (15) days after the date of disapproval and upon written notification by the city manager or his/her designee.
- (d.) Criteria for approval. In order to make a finding of hardship and grant a variance from the zoning regulations of this ordinance, the board must determine the following:
 - (1.) There are special circumstances or conditions (including restricted area, topography or physical features) affecting the land involved, and are not applicable to other parcels of land in the same zoning district, such that the application of the zoning ordinance's provisions would deprive the applicant of the reasonable use of his/her land.
 - (2.) The variance, if granted, would be the minimum necessary relief required to alleviate the undue hardship.
 - (3.) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

- (4.) The granting of the variance will not be detrimental to the public health, safety or welfare, or impair the purposes and intent of this zoning ordinance and the comprehensive plan or be injurious to other property within the area.
- (5.) The granting of the zoning variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this zoning ordinance.
- (6.) Finding that an undue hardship exists. In determining if a hardship exists, the board of adjustment shall use the following criteria:
 - a. That literal enforcement of the ordinance will create an undue hardship or practical difficulty in the development of the affected property; and
 - b. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district; and
 - c. That the relief sought will not injure the permitted use of adjacent conforming property; and
 - d. That the granting of a variance will be in harmony with the spirit and purpose of this chapter.
 - e. Financial hardship alone is not an “undue hardship” if the property can be used, meeting the requirements of the zoning district in which the property is located.
- (e.) Finding of undue hardship as applied to a structure. In considering a variance as applied to a structure, the board of adjustment may consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:
 - (1.) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under section 26.01, Tax Code;
 - (2.) Compliance would result in a loss to the lot on which the structure is located of at least twenty five (25) percent of the area on which development may physically occur;
 - (3.) Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - (4.) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (5.) The city considers the structure to be a nonconforming structure.
- (f.) Finding of fact. The board shall complete a finding of fact for the variance request to support its conclusion for each variance presented to it.
- (g.) Court appeal.
 - (1.) Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment or any taxpayer, or any officer, department, board, or bureau of the city may present to a court of record as provided by law a petition, duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board.

Section 24-139 Special exceptions

(a.) Applicability. When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the Board of Adjustment may, in specific cases after public notice and public hearing, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the ordinance. The board may, in a specific case, where the board makes the findings required in this section, grant the following special exceptions from the requirements of this chapter:

- (1.) The reconstruction of a building occupied by a nonconforming use, provided such reconstruction does not prevent the eventual return of such property to a conforming use.
- (2.) The enlargement or extension of a nonconforming use.
- (3.) Modifications of yard, open space, parking lot area or lot size regulations of a minor nature that is necessary to secure appropriate development of a parcel of land where such parcel was separately owned at the time of the passage of this ordinance and is of such restricted area where the shape of the lot is such that it cannot be appropriately developed without such modification.
- (4.) Reduce required off-street parking if it can be shown that the required minimum as herein established will not at any time be necessary because of the character of the proposed uses at a probable limited quantity of employees, clients, customers or tenants.
- (5.) Reduce, substitute or allow alternative screening and buffering between districts when the proposed alternative provides equal or greater mitigation of nuisances created by the nonresidential or multi-family development and result in an equal or greater level of compatibility between the uses.
- (6.) Reduce, substitute or allow alternative screening for residential developments adjacent to major and secondary roadways, when the proposed development is located adjacent to an existing residential development which was constructed prior to the adoption of the screening along major and secondary roadway requirements.
- (7.) Reduce, substitute or allow for alternative landscaping if the aesthetic, buffering and environmental intent of this chapter is met.
- (8.) Approval of special exceptions under article IX, wireless antennas and antenna facilities.
- (9.) The board may grant such other special exceptions as may be provided for elsewhere in this chapter, subject to the terms and conditions therein set out.

(b.) Application requirements.

- (1.) Application Required. Any request for a special exception shall be accompanied by an application prepared in accordance with the city's development manual.

(c.) Processing of application and decision.

- (1.) Submittal. An application for a special exception shall be submitted to the city manager or his/her designee. The city manager or his/her designee shall review the application for completeness. The city manager or his/her designee may, at its option, request a recommendation from any other city department or consultant. The city manager or his/her designee shall notify the applicant of items requiring correction or attention before providing a

recommendation on the application. After appropriate review, the city manager or his/her designee shall forward a written recommendation to the board of adjustment.

(2.) Notification requirements. An application for a special exception requires the following public hearing notification:

- a. Written notice mailed to each owner of real property within two hundred (200) feet, as indicated by the most recently approved municipal tax roll, at least eleven (11) days prior to the public hearing and consideration by the board of adjustment.
- b. Published notice in a newspaper of general circulation at least sixteen (16) days prior to the public hearing and consideration by the board of adjustment.
- c. Public hearing notices shall include the date, time, place, and topic of the public hearing.

(3.) Decision by the board of adjustment.

- a. The BOA shall receive the recommendation of the city manager or his/her designee and shall hold a public hearing. The Board may vote to approve, approve with conditions, or deny the special exception request.
- b. The board may, on its own motion or by request of the property owner, postpone consideration of the request to a certain date that is not more than thirty (30) calendar days after the date of the current consideration in order to review additional information or modifications which may have a direct bearing on the final decision.
- c. Approval of a special exception request shall require the concurring vote of seventy-five percent (75%) of the members of the board.
- d. The approval shall be effective for a period of one-hundred eighty (180) days after the date of such approval. If no development application or building permit is submitted within that time, the variance shall become null and void.
- e. The disapproval of a variance shall require compliance by the applicant, if applicable, within fifteen (15) days after the date of disapproval and upon written notification by the city manager or his/her designee.

(4.) Criteria for approval. In order to grant a special exception the board must find the following:

- a. In granting the special exception, the public convenience and welfare will be substantially served;
- b. In granting the special exception, the appropriate use of neighboring property will not be substantially or permanently injured;
- c. The granting of the special exception will not adversely affect the public health, convenience, safety or general welfare.

(5.) Finding of fact. The board shall complete a finding of fact for the special exception request to support its conclusion for each variance presented to it.

Section 24-140 Appeals to the board of adjustment

- (a.) A member of the city council may not bring an appeal under this section. A person aggrieved by a decision made by an administrative official, or any officer, department, board, or bureau of the municipality affected by the decision may appeal.

- (b.) The appellant must file with the board and the official from whom the appeal is taken a written notice of appeal specifying the grounds for the appeal. The appeal must be filed within ten (10) calendar days after the decision has been rendered.
- (c.) Upon receiving the notice, the official from whom the appeal is taken shall transmit to the board 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 that the facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining order granted by the board or a court of record on application, after notice to the official, if due cause is shown.
- (d.) The board shall set a reasonable time for the appeal hearing and shall give public notice of the hearing and due notice to the parties in interest. A party may appear at the appeal hearing in person or by agent or attorney.
- (e.) The board shall decide the appeal at the next meeting for which notice can be provided following the hearing and not later than the sixtieth (60th) calendar day after the date the appeal is filed.
- (f.) The board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.
- (g.) Finality of decision; judicial review.
 - (1.) The decision of the board shall be final. However, any of the following persons may present to a district court, county court, or county court at law a verified petition stating that the decision of the Board is illegal in whole or in part and specifying the grounds of the illegality:
 - a. A person aggrieved by the decision;
 - b. A taxpayer; or
 - c. An officer, department, or board of the City;
 - (2.) The petition must be presented within ten (10) days after the date the decision is filed in the Board's office. Subject to the provisions of Texas Local Government Code, only a court of record may reverse, affirm, or modify a decision of the Zoning Board of Adjustment.

Section 24-141 Public hearings

- (a.) Public Hearing Required. Whenever a public hearing is required, the city manager or his/her designee shall establish the date, time and place of the public hearing and shall cause any notice required to be prepared and made accordingly.
- (b.) Conduct of Hearing. Any person may appear at the public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state his or her name, address, and if appearing on behalf of an organization, state the name and mailing address of the organization for the record. Subject to the chairperson's inherent authority to conduct meetings, public hearings shall generally be conducted as follows.
 - (1.) The city staff may present a description of the proposed project and a written or oral recommendation, if required.

- (2.) The applicant may present information relevant to his/her request. A maximum time limit may be imposed by the chairperson.
- (3.) Testimony in support of the request may be presented by any individual who expresses an interest in the proposed project. A maximum time limit per person may be imposed by the chairperson.
- (4.) Testimony in opposition of the request may be presented by any individual who expresses an interest in the proposed project. A maximum time limit per person may be imposed by the chairperson.
- (5.) At the discretion of the chairperson, the City staff and the applicant may respond to any statement by the public.
- (6.) At the sole discretion of the chairperson of the body conducting the hearing, an individual may be permitted to pose relevant questions to staff, the applicant or the body conducting the hearing, as directed by the chairperson.
- (7.) The board, commission or city council conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious.
- (8.) The members of the board, commission or city council conducting the public hearing shall have the opportunity to ask questions and/or make comments.
- (9.) The chairperson shall close the public hearing.
- (10.) Immediately after the closing of the public hearing, the board, commission, or city council conducting the hearing may deliberate and take action on the hearing item as may be required.
- (c.) Continuation of Hearing. The board, commission or city council conducting the hearing may, on its own motion or at the request of any person, for good cause, continue the hearing to a fixed date, time and place. Except as required by the Texas Open Meetings Act or other applicable law, no notice shall be required if a hearing is continued. If a public hearing is closed, no further public testimony shall be taken.
- (d.) Additional Rules. The board, commission or city council conducting the hearing may adopt additional rules of procedure and may apply such additional rules to govern the public hearing which are not inconsistent with this section.
- (e.) Joint Public Hearing. Unless otherwise prescribed in this chapter, whenever an application must be preceded by a public hearing both before an advisory body (i.e. board, commission and/or committee) and before the city council, the advisory body and the council may conduct a joint public hearing and take action on the application in the following manner:
 - (1.) The Mayor or city council on its own motion shall establish the date of the joint public hearing.
 - (2.) The city council shall cause notice of the joint public hearing to be provided as required.
 - (3.) The advisory body (i.e. board, commission and/or committee) and the city council shall be convened for the hearing and for any action to be taken on the petition or application.
 - (4.) The advisory body (i.e. board, commission and/or committee) and the city council may take action on the application at the same meeting, provided that the city council shall not take action until the written report and recommendation of the advisory body (i.e. board, commission and/or committee) has been received.

Section 24-142 Certificates of occupancy and compliance

(a.) Certificates of occupancy shall be required for:

- (1.) Occupancy and use of a building hereafter erected or structurally altered.
- (2.) Change in use of an existing building.
- (3.) Occupancy and use of vacant land.
- (4.) Change in the use of land to a use of a different classification.
- (5.) Any change in the use of a nonconforming use.

(b.) Certificates of occupancy for nonconforming uses.

- (1.) A certificate of occupancy shall be required for all lawful nonconforming uses of land or buildings created by adoption of this ordinance. Application for such certificate of occupancy for a nonconforming use shall be filed with the building inspector by the owner or lessee of the building or land occupied by such nonconforming use within one (1) year of the effective date of this ordinance. It shall be the duty of the building inspector to issue a certificate of occupancy for a lawful nonconforming use, or refusal of the building inspector to issue a certificate of occupancy for such nonconforming use shall be evidence that said nonconforming use was either illegal or did not lawfully exist at the effective date of this ordinance.

(c.) Procedure.

- (1.) Written application for a certificate of occupancy for a new building or for an existing building which has been altered shall be made at the same time as the application for the building permit for such building. Said certificate shall be issued within three (3) days of completion of construction or alteration. Written application for a certificate of occupancy for the use of vacant land, or for a change in nonconforming use, as herein provided, shall be made to the building official. If the proposed use is in conformity with the provisions of this ordinance, the certificate of occupancy therefor shall be issued. The fee for such certificate of occupancy shall be in accordance with the Certificate of Occupancy Fee as stated in the City's Fee Schedule and as amended from time to time as necessary, and shall be paid to the City of Live Oak at the time the building permit is issued. Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all certificates of occupancy shall be kept on file in the office of the building official or his agent.

Section 24-143 to 24-150 Reserved

Article XIII ENFORCEMENT

Section 24-151 Enforcement

(a.) Enforcement officer.

- (1.) The provisions of this ordinance shall be administered and enforced by the city manager and his/her designee and the building inspector.

(b.) Right to enter.

- (1.) The building inspector or any duly authorized person shall have the right to enter upon any premises at any reasonable time prior to the completion of the buildings for the purpose of making inspections of building or premises necessary to carry out his duties in the enforcement of this ordinance.

(c.) Stop orders.

- (1.) Whenever any building work is being done contrary to the provisions of this ordinance, the building inspector may issue a stop order to the owner or contractor doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the building official to proceed with the work.

Section 24-152 Violation and penalties.

- (a.) Any person, firm, or corporation who shall violate any of the provisions of this ordinance, or fails to comply therewith, or who shall violate or fail to comply with any order or regulation made hereunder, or who shall build any project or facility in violation of any detailed statement of specification or plans submitted and approved hereunder, or any certificate or permit issued hereunder, shall, for each and every violation and noncompliance respectively be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed two thousand dollars (\$2,000) or the appropriate legal maximum as determined by statute. Each and every day that such violation and/or noncompliance shall exist shall be deemed a separate offense. In case any person, firm, or corporation violates any of the provisions of this ordinance or fails to comply therewith, the City, in addition to imposing the penalties above provided may institute any appropriate action or proceedings in court to prevent, restrain, correct, or abate or to prevent any illegal act, conduct, business, or use in or about any land, and the definition of any violation of the terms of this ordinance as a misdemeanor, shall not preclude the City from invoking the civil remedies given it by law in such cases, but same shall be cumulative of and in addition to the penalties prescribed for such violation.