

#121911

ZONING ORDINANCE CITY of POTH, TEXAS

BY THE PROVISIONS OF CHAPTER 211, TEXAS LOCAL GOVERNMENT CODE, TO REGULATE THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES AND SIZE OF BUILDINGS; OPEN AREAS; LOT COVERAGE; DENSITY AND DISTRIBUTION OF POPULATION; THE USES OF LAND, BUILDINGS AND STRUCTURES; TO REQUIRE OFF-STREET PARKING AND LOADING AND FOR SAID NUMBER, SHAPE, SIZE AND CHARACTERISTICS AS MAY BE ADVISABLE TO CARRY OUT THESE REGULATIONS; TO PROVIDE FOR ITS ENFORCEMENT; TO PRESCRIBE PENALTIES FOR THE VIOLATION OF ITS PROVISION; AND TO PROVIDE AN EFFECTIVE DATE AND REPEAL ALL ORDINANCES IN CONFLICT .

WHEREAS, the City Council of the City of Poth, Texas, deems it necessary to prevent congestion on streets; to secure safety from fire, flood and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements; to preserve the natural environment; and to encourage the most appropriate use of land throughout the City of Poth, all in accordance with a Comprehensive Master Plan, **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POTH, TEXAS:

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**ARTICLE I
PREAMBLE**

SECTION 1 Title

This Ordinance shall be known as "**Zoning Ordinance of the City of Poth, Texas**".

SECTION 2 Enacting Clause

That there be enacted the following Zoning Ordinance, together with a Map creating and delineating zoning districts.

SECTION 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 danger; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. 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 building and encouraging the most appropriate use of land throughout the City consistent with a Comprehensive Plan.

SECTION 4 References

For the purposes of this Zoning Ordinance, all references to the "**City**" shall be interpreted to mean the City of Poth, Texas. All references to the "**Council**" shall be interpreted to mean the City Council of Poth. All references to the "**Commission**" shall be interpreted to mean the Planning and Zoning Commission of Poth. All references to the "**Map**" shall be interpreted to mean the Official Zoning Map of Poth. All references to the "**Hearing**" shall be interpreted to mean the Public Zoning Hearing.

**ARTICLE II
DISTRICTS, BOUNDARIES, OFFICIAL ZONING MAP,
NEW AND UNSCHEDULED USES
AND COMPLIANCE REQUIRED**

SECTION 1 Districts

The City is hereby divided into districts as follows:

PD	Predevelopment District
R-1	Single Family Dwelling District

R-2	Two Family Dwelling District
R-3	Apartment/Multi-Family Dwelling District
R-4	Single Family Dwelling Manufactured Housing District
GB	General Business District
M-1	Manufacturing District

SECTION 2 Boundaries

The boundaries of these districts are indicated upon the Map of the City, which is on file in the offices of the City Secretary and made a part of this Zoning Ordinance, the same as if copied in full herein. Where uncertainty exists as to the boundaries of districts as shown on the Map, the following rules shall apply:

- 2.1 Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
- 2.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 2.3 Boundaries indicated as approximately following City limits shall be construed as following such City limits.
- 2.4 Boundaries indicated as following shorelines of creek 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.
- 2.5 Boundaries indicated as following railroad lines shall be construed to be midway between the rails of the main line.
- 2.6 In un-subdivided property, the district boundary lines on the Map shall be determined by use of the scale appearing on the map.
- 2.7 In case of a district boundary line dividing a property into two parts, the property shall remain divided until the property owner, firm or corporation petitions the Council for rezoning.
- 2.8 Whenever any street, alley or other public way is vacated by official action of the 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 hence forth be subject to all regulations of the extended districts.

SECTION 3 Official Zoning

- 3.1 Maintenance of Zoning Map. The Map shall be kept in the office of the City Secretary.

One (I) copy of the Map shall be kept by the Commission and one (I) copy shall be kept in the office of the Building Official.

It shall be the duty of the City Secretary to keep the Map and the copies thereof current by entering on the Map any changes which the Council may from time to time order by amendments to the Zoning Ordinance and the Map.

- 3.2 The City Secretary, upon adoption of this Zoning Ordinance, shall affix a certificate identifying the Map in his/her office as the Map of the City of Poth. He/she shall likewise officially identify the copies directed to be kept by the Commission and in the office of the Building Official. All amendments of the Map shall be made immediately after their enactment and the date of the change shall be noted on the certificate

SECTION 4 Classification of New and Unscheduled Uses

It recognized that new or unlisted types of land use may seek to locate in the City. In order to provide for such contingencies, a determination of any new or unlisted form of land use shall be made as follows:

- 4.1 The Building Official shall refer the question concerning any new or unlisted use to the Commission requesting an interpretation as to the zoning district into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage and amount and nature thereof, enclosed or open storage, anticipated employment, transportation requirements, the amount of noise, odor, fumes, dust, toxic material and vibration likely to be generated and the general requirements for public utilities such as water and sanitary sewer.
- 4.2 New and unscheduled uses referred to the Commission shall be reviewed by the Commission to insure that the use meets the standards and requirements established for the particular district. The Commission shall recommend to the Council a public hearing be held or will recommend disapproval. The City Secretary shall send a letter to the applicant indicating the date of the public hearing, or disapproval, and in the case of disapproval, the reason(s) for the disapproval and the appeal procedures.

The Commission and Council shall hold a joint Hearing and meet with the parties of interest and shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use should be permitted. Such Hearings shall be scheduled and conducted in accordance with the provisions of Article XIV.

- 4.3 The Commission shall transmit its findings and recommendations as to the classification proposed for any new or unlisted use to the Council. The Council shall review recommendations of the Commission and make such determination concerning the classification of such use as it determines appropriate.

SECTION 5 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 .

- 5.1 The minimum yards, parking spaces and open spaces, including lot area per family, required by the Height and Area provisions of this Zoning Ordinance for each and every building existing at the time of passage of this Zoning Ordinance or for any building hereafter erected, shall not be encroached upon nor considered as part of the yard or parking space required for any other building, nor shall any lot area be reduced below the requirements of this Zoning Ordinance for the district in which such lot is located. There shall not be more than one residential dwelling on a lot of a duly recorded plat of a single-family residential use.
- 5.2 All buildings built for use and access by the general public shall be subject to the provisions of the International Building Code and International Fire Code and all subsequent revisions.

ARTICLE III NEWLY ANNEXED TERRITORY

SECTION 1 Annexed Territory - Temporary Classification

All territory hereafter annexed to the City shall be temporarily classified as Predevelopment District (PD). The 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. The required Public Zoning Hearing may be conducted in conjunction with or during the required annexation process.

ARTICLE IV PREDEVELOPMENT DISTRICT REGULATIONS, PD

SECTION 1 In an area temporarily classified as PD

- 1.1 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 and obtaining a building permit or certificate of occupancy from the Building Official or the Council as may be required herein.
- 1.2 No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit which will allow the construction of a building permitted in the PD, unless and until such territory has been classified in a district other than the PD by the Council in the manner provided by law, except that a building permit may be issued in accordance with the provisions as follows.

- 1.3 An application for a permit for any use other than that specified in paragraph 1. 2 above shall be made to the Building Official of the City, and by him/her referred to the Commission for consideration and recommendation to the Council. The Commission shall take into consideration the appropriate land use for the area and the Comprehensive Master Plan for the City in making its recommendation to the Council concerning any such permit. The Council, after receiving and reviewing the recommendations of the Commission, may by majority vote authorize the issuance of a Building Permit or Certificate of Occupancy or may disapprove the application.
- 1.4 Use Regulations: In a PD, no land shall be used, and no building shall be erected for or converted to any use other than:

See Appendix A, Schedule of Uses and Article II, Section 4.

ARTICLE V

SINGLE FAMILY DWELLING DISTRICT REGULATIONS, R-1

SECTION 1 Use Regulations

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

See Appendix A, Schedule of Uses and Article II, Section 4.

SECTION 2 Height Regulations

No building or structure shall exceed thirty-five feet (35') in height.

SECTION 3 Area Regulations

- 3.1 Width of Lot - The minimum width of the lot shall be seventy-five feet (75') measured at the front or rear building line, whichever is less. Lots of irregular shape are permitted but shall not be allowed unless they have a minimum street frontage of fifty feet (50').
- 3.2 Minimum Depth of Lot- The minimum depth of the lot shall be one hundred feet (100').
- 3.3 Area of Lot - The minimum area of the lot shall be seven thousand, five hundred square feet (7,500 SF).
- 3.4 Front Yard Setback - There shall be a front yard having a depth of not less than twenty-five feet (25').

Exception - Carport: In any R-1 zoning district, a carport may be constructed under the following guidelines:

- a. It shall not extend past the front property line.
- b. It shall not violate provisions for side yards.
- c. It shall be completely open to the sides so as not to obstruct the view of traffic.

- d. It may be attached or detached.
 - e. The top covering material shall not extend down the sides more than twelve inches (12").
- 3.5 Rear Yard Setback - There shall be a rear yard having a depth of not less than twenty feet (20')
- 3.6 Side Yard Setback - There shall be two side yards, one on each side of the building, having an aggregate width of fifteen feet (15') and a minimum width of seven feet (7') on any one side.
- 3.7 Parking Regulations - A minimum of two off-street parking spaces shall be provided. (See Article XIII)
- 3.8 Accessory Buildings - No accessory building, as permitted herein shall occupy more than forty percent (40%) of the required rear yard. Accessory buildings shall be set in conformance with all building setback lines, except that no accessory buildings may be closer than ten feet (10') to the main building in the rear yard and must be at least three feet (3') from side or rear property lines. No accessory building shall be constructed in the front yard or in any easement, with the exception of carports as provided for in Section 3.4

ARTICLE VI
TWO FAMILY DWELLING DISTRICT, R-2

SECTION 1 Use Regulations

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

See Appendix A, Schedule of Uses and Article II, Section 4.

SECTION 2 Height Regulations

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

SECTION 3 Area Regulations

- 3.1 Width of Lot - The minimum width of the lot shall be one hundred feet (100') measured at the front or rear building line, whichever is less.
- 3.2 Minimum Depth of Lot - The minimum depth of the lot shall be one hundred feet (100').
- 3.3 Area of Lot- The minimum area of the lot shall be ten thousand square feet (10,000 SF).
- 3.4 Front Yard Setback - There shall be a front yard having a depth of not less than twenty-five feet (25').

Exception - Carport: -In any R-2 zoning district, a carport may be constructed under the following guidelines:

- a. It shall not extend past the front property line.
- b. It shall not violate provisions for side yards.
- c. It shall be completely open to the sides so as not to obstruct the view of traffic;
- d. It may be attached or detached.
- e. The top covering material shall not extend down the sides more than twelve inches (12").

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

3.6 Side Yard Setback - There shall be two side yards, one on each side of the building, having an aggregate width of fifteen feet (15') and a minimum width of seven feet (7') on any one side.

3.7 Parking Regulations - A minimum of two off-street parking spaces shall be provided per dwelling unit. (See Article XIII).

3.8 Accessory Buildings - No accessory building, as permitted herein shall occupy more than forty percent (40%) of the required rear yard. Accessory buildings shall be set in conformance with all building setback lines, except that no accessory buildings may be closer than ten feet (10') to the main building in the rear yard and must be at least three feet (3') from side or rear property lines. No accessory building shall be constructed in the front yard or in any easement, with the exception of carports as provided for in Section 3.A.

ARTICLE VII APARTMENT/MULTI-FAMILY DWELLING DISTRICT, R-3

SECTION 1 Use Regulations

A building or premise shall be used only for the following purposes: See Appendix A, Schedule of Uses and Article II, Section 4.

SECTION 2 Height Regulations

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

SECTION 3 Area Regulations

3.1 Width of Lot - The minimum width of the lot shall be one hundred feet (100') measured at the front or rear building line, whichever is less.

3.2 Minimum Depth of Lot - The minimum depth of the lot shall be one hundred feet (100').

- 3.3 Area of Lot - The minimum area of the lot shall be ten thousand square feet (10,000 SF) for three units and eighteen hundred square feet (1,800 SF) for each additional unit. Not more than twenty-four (24) units per acre shall be authorized
- 3.4 Front Yard Setback - There shall be a front yard having a depth of not less than twenty-five feet (25').
- 3.5 Rear Yard Setback - There shall be a rear yard having a depth of not less than twenty-five feet (25').
- 3.6 Side Yard Setback - There shall be two side yards, one on each side of the building, having an aggregate width of fifteen feet (15') and a minimum width of seven feet (7') on any one side
- 3.7 Parking Regulations - A minimum of two off-street parking spaces shall be provided per dwelling unit. (See Article XIII).
- 3.8 Accessory Buildings - No accessory building, as permitted herein shall occupy more than forty percent (40%) of the required rear yard. Accessory buildings shall be set in conformance with all building setback lines, except that no accessory buildings may be closer than ten feet (10') to the main building in the rear yard and must be at least three feet (3') from side or rear property lines . No accessory building shall be constructed in the front yard or in any easement

**ARTICLE VIII
SINGLE FAMILY DWELLING MANUFACTURED HOUSING DISTRICT
REGULATIONS, R-4**

SECTION 1 Use Regulations

A building or premise shall be used only for the following purposes: See Appendix A, Schedule of Uses and Article II, Section 4.

SECTION 2 Height Regulations

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

SECTION 3 Area Regulations

3.1 Front Yard Setbacks • The front yard setback shall be a minimum of twenty-five (25') feet

Exception: In any R-4 zoning district, a carport may be constructed under the following

guidelines:

- a. It cannot extend past the front property line;
 - b. It cannot violate provision for side yards;
 - c. It must be completely open to the sides so as not to obstruct the view of traffic;
 - d. It may be attached or detached;
 - e. The top covering material may not extend down the sides more than twelve (12') inches.
- 3.2 Width of Lot- The minimum width of the lot shall be seventy-five feet (75') measured at the front or rear building line, whichever is less. Lots of irregular shape are permitted but shall not be allowed unless they have minimum street frontage of fifty feet (50').
- 3.3 Minimum Depth of Lot- The minimum depth of the lot shall be one hundred feet (100').
- 3.4 Area of Lot - The minimum area of the lot shall be ten thousand square feet (10,000 SF) for three units and eighteen hundred square feet (1,800 SF) for each additional unit. Not more than twenty-four (24) units per acre shall be authorized.
- 3.5 Rear Yard Setback - there shall be a rear yard having a depth of not less than twenty feet (20').
- 3.6 Side Yard Setback- there shall be two side yards, one on each side of the building, having an aggregate width of fifteen feet (15') and a minimum width of seven feet (7') on any one side
- 3.7 Parking Regulations - A minimum of two off-street parking spaces shall be provided per dwelling unit (See Article XIII).
- 3.8 Accessory Buildings - No accessory building, as permitted herein shall occupy more than forty percent (40%) of the required rear yard. Accessory buildings shall be set in conformance with all building setback lines No accessory buildings may be closer than ten feet (10') to the main building in the rear yard. No accessory building shall be constructed in the front yard or in any easement.

SECTION 4 Mobile Home & Manufactured Housing

- 4.1 Building Type - No structure of any kind shall be moved on a residential lot zoned R-4 except that of a modern factory-built manufactured home or prefabricated home containing not less than 910 square feet (exclusive of open porches, breezeways, carports, and garages) will be permitted.
- 4.2 Building Age - No factory-built manufactured home, mobile home or prefabricated home shall be in such condition as to be uninhabitable or to pose a not insubstantial risk to the health or safety of any inhabitants at the time when placed on the property. Manufactured homes, mobile homes or prefabricated homes, more than 5 years of age shall be presumed to be uninhabitable. The City shall have the right to inspect any manufactured home, mobile

home, or prefabricated home, of whatever age, to determine its condition. In the event that the City deems the condition of the home to be inadequate for the purpose of this regulation, the City shall refuse a building permit. The City shall further refuse to connect any such home to water or sewer service, or to permit such home to be occupied as a residence or business.

- 4.3 Foundation Type and Enclosure - Within thirty (30) days after a qualifying manufactured home or a new prefabricated home has been moved on a residential lot, the same must be completely enclosed from ground level to lower portion of the outside walls so as to maintain a neat appearance with pier removed from outside view .

Any qualifying manufactured home or new prefabricated home shall be anchored and secured by an approved method

ARTICLE IX GENERAL BUSINESS DISTRICT, GB

SECTION 1 Purpose

The purpose of this district is to provide for general commercial uses which serve a City-wide or regional area. Such districts should have frontage on regional thoroughfares such as City collector streets or state or federal highways. Because of the permitted uses, compatibility with adjacent residential areas should be carefully considered.

SECTION 2 General Provisions

- 2.1 Businesses located on City collector streets shall be conducted on property.
- 2.2 No use shall otherwise be permitted which is or would reasonably be detrimental to the neighborhood residents or which would interfere with the reasonable use and enjoyment of their property by reason of the emission of dust, smoke, odor, glare, noise, vibration, trash, junk or water spray, or by reason or any condition which would amount to a public nuisance.
- 2.3 General District Construction Requirements: All buildings in the General Business District shall be of permanent construction, placed upon a slab or other permanent foundation. No General Business shall be conducted out of a temporary or mobile or moveable building.

SECTION 3 Use Regulations

- 3.1 A building or premise shall be used only for the following purposes: See Appendix A, Schedule of Uses and Article n, Section 4.
- 3.2 Any regulated materials, substances, medications, or drugs must be secured and protected from any escape, seepage, misuse, or theft. Specifically , any materials, substances, chemicals, pharmaceuticals, medicines, or drugs regulated by the Texas Commission on Environmental Quality, the Environmental Protection Administration, the Texas Department

of Health, or other regulatory body, must be secured in a permanent structure, protected against misuse, seepage, or theft, and appropriately locked by dead bolt locks or other appropriate security system.

SECTION 4 Height Regulations

No building or structure shall exceed one hundred twenty feet (120') in height. Wireless communications facilities (WCF), including towers and antenna shall not exceed 100 feet, if the WCF is at least 200 up to 250 feet from any residential district; 125 feet, if the WCF is at least 250 up to 540 feet from any residential district; and 150 feet, if the WCF is 540 feet or more from any residential district

SECTION 5 Area Regulations

- 5.1 Side Yard Set Back - No minimum, except that a side yard of not less than twenty-five (25') feet width shall be provided on the side of the lot adjoining or across a side street from a residential district
- 5.2 Front Yard Set Back - The minimum set back alongside major thoroughfare shall align with existing buildings to the extent reasonably practical.
- 5.3 Rear Yard Set Back - The minimum rear lot line setback (being any lot line opposite a front yard setback) shall be ten (10') feet from the adjoining lot line.
- 5.4 Area of Lot- The minimum area of the lot shall be ten thousand square feet (10,000').
- 5.5 Width of Lot - The minimum width of the lot shall be one hundred feet (100') at the building line measured at the front or rear building line, whichever is less.
- 5.6 Minimum depth of lot- The minimum depth of the lot shall be one hundred (100') feet.
- 5.7 Parking Regulations - When reasonably practical all parking areas shall be located on the front yard area. Reference Article XIII for detailed specifications.
- 5.8 Accessory Buildings - 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 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. No accessory buildings shall be constructed in the front yard or an easement.
- 5.9 Fences Required - When a General Business District abuts residential lot(s), a privacy fence is required with a minimum height of six (6') feet.
- 5.10 All parking and driveways must be paved with concrete, asphalt or 2 courses chip seal with 6" base.

ARTICLE X
MANUFACTURING DISTRICT, M-1

SECTION 1 Use Regulations

- A. Any manufacturing, industrial servicing, or storage process not prohibited by law and upon approval by the Council in accordance with the Specific Use Permit procedure established in Article XIV. A building or premise shall be used only for the following purposes:

See Appendix A, Schedule of Uses and Article II, Section 4.

- B. Any regulated materials, substances, medications, or drugs must be secured and protected from any escape, seepage, misuse, or theft. Specifically, any materials, substances, chemicals, pharmaceuticals, medicines, or drugs regulated by the Texas Commission on Environmental Quality, the Environmental Protection Administration, the Texas Department of Health, or other regulatory body, must be secured in a permanent structure, protected against misuse, seepage, or theft, and appropriately locked by dead bolt locks or other appropriate security system.

SECTION 2 Restrictions

No manufacturing District, M-1, uses shall be permitted which abuts residential zoned property.

SECTION 3 Height Regulations

No building or structure shall exceed one hundred twenty feet (120'). Wireless communications facilities (WCF), including towers and antenna shall not exceed 100 feet, if the WCF is at least 200 up to 250 feet from any residential district; 125 feet, if the WCF is at least 250 up to 540 feet from any residential district; and 150 feet, if the WCF is 540 feet or more from any residential district

SECTION 4 Area Regulations

- 4.1 Commercial Building Construction Requirements – All buildings shall be of a permanent construction, placed upon a slab or other permanent foundation. No general business shall be conducted out of a temporary or mobile or moveable building. The use of all buildings must comply with all of the zoning ordinances of the City of Poth, must be deemed to be habitable, fit for their intended purpose, and comply with all requirements for water, electricity, gas, sewage, and other utilities. All buildings must be located at least twenty-five (25') feet from the nearest property line adjoining any residential (R-1 or R-4) area.

- 4.2 Width of Lot – The minimum width of the lot shall be one hundred feet (100’) measured at the front or rear building line, whichever is less.
- 4.3 Minimum Depth of Lot – The minimum depth of the lot shall be one hundred feet (100’).
- 4.4 Area of Lot – The minimum area of the lot shall be ten thousand square feet (10,000SF).
- 4.5 Front Yard Setback- There shall be no front yard requirement.
- 4.6 Side Yard Setback – There shall be no minimum, except that a side yard of not less than twenty five feet (25’) in width shall be provided on the side of the lot adjoining residential lot(s) or a residential district or across a side street from residential district No parking, storage or similar use shall be allowed in required side yards or side street yards in M-1 Districts.
- 4.7 Rear Yard Setback - No rear yard is required, except that a rear yard of not less than fifty feet (50’) 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 M-1 Districts within twenty-five feet (25’) of the rear property line.
- 4.8 Accessory Buildings – No accessory building, as permitted herein shall occupy more than forty percent (40%) of the required rear yard. Accessory buildings shall be set in conformance with all building setback lines No accessory buildings may be closer than ten feet (10’) to the main building in the rear yard. No accessory building shall be constructed in the front yard or in any easement.
- 4.9 Fences Required – Where a Manufacturing District abuts residential lot(s) or residential zoned property, a privacy fence shall be installed with a minimum height of six feet (6’).
- 4.10 All parking and driveways must be paved with concrete, asphalt or 2 courses chip seal with 6” base.

ARTICLE XI SPECIAL OVERLAY DISTRICTS

SECTION 1 Special Overlay Districts

- 1.1 Authorized Use – The Council of the City, after a public hearing and proper notice to all parties affected, in accordance with the notice procedures prescribed under Article XIV for amending the Zoning Ordinance, and after recommendation by the Commission,

may establish Special Overlay District.

1.2 Purpose – Special Overlay Districts may be established when it is determined additional zoning requirements, as authorized by this Zoning Ordinance, are applicable to certain areas with the City This Special Overlay District shall not change the existing zoning classification requirements for the purpose of promoting the health, safety, and general welfare of the City. The following are examples of, but should not be restricted only to these, reasons for establishing a Special Overlay District

1. Air traffic patterns and location of property in relationship to airports and runways which may require additional height restrictions, building requirements and may be used to restrict use to avoid a high intensity of people in accident potential areas for the safety of the public.
2. Establish requirements for retention ponds and landscaped buffer area to control erosion, run-off, and drainage, and can include replacement or planting of trees because of destruction of the natural water sheds because of development.
3. Establish requirements, including but not limited to, signs, building setback lines, limited driveways, land berms, hedges, screening, architectural and aesthetic standards to control and limit potential distractive hazards and including glare and noise associated with vehicular traffic
4. Flood hazard special restrictions beyond the normal Flood Ordinance requirements to establish higher base floor elevations, additional setback from flood hazardous area and other applicable control to prevent erosion, run-off, damming, and other perils associated with destruction of property due to floods.

ARTICLE XII HEIGHT AND AREA SPECIAL CONSIDERATIONS

SECTION 1 Overall Height and Area Regulations

Except as provided herein, no building or structure or part thereof shall be erected, altered or converted for any use permitted in the district in which it is located unless it is in conformity with all the minimum regulations specified herein for lot width, depth and area; front, side and rear yards; dwelling unit area and minimum parking requirements.

SECTION 2 Special Height and Area Considerations

2.1 Height– In non-residential districts where the height of buildings or structure is restricted to thirty five feet (35’), cooling towers, roof gables, chimneys and vent stacks may extend for an additional height not to exceed forty feet (40’) total above the average grade line of the building. In residential districts where the height of buildings or structures are restricted to

thirty five feet (35'), cooling towers, roof gables, chimneys and vent stacks may extend for an additional height not to exceed ten feet (10') total above the average grade line of the building. Wireless communications facilities (WCF), including towers and antenna shall not exceed 100 feet, if the WCF is at least 200 up to 250 feet from any residential district; 125 feet, if the WCF is at least 250 up to 540 feet from any residential district; and 150 feet, if the WCF is 540 feet or more from any residential district

2.2 Mixed Use Building – In an attached building serving dwelling and other uses, in any district, the height and area regulations applicable to nonresidential buildings shall apply.

2.3 Front Yards –

1. Where the frontage on one side of a street between two intersecting streets is divided by two or more Zoning Districts, the front yard setback shall comply with the requirements of most restrictive district for the entire frontage from one intersecting street to another.
2. Where the building setback line has been established by plat and exceeds the requirements of this Zoning Ordinance, the most restrictive setback line(s) shall apply.
3. The front yard shall be measured from the property line to the front face of the building, covered porch, covered tenace or attached accessory building. Eaves and roof extensions may project into the required front yard, not to exceed two feet (2').

Fence or surface structures shall not exceed seventy-two inches (72") in height nor extend beyond the property I in e.

2.4 Rear Yards – Every part of a required rear yard shall be open and unobstructed to the sky from a point thirty inches (30") above the general ground level of the graded lot except for accessory buildings as permitted and the ordinary projections of window sills, belt courses, cornices and roof overhangs and other architectural features projecting not to exceed ten feet (10') into the required rear yard.

2.5 Side Yards – Each part of a required side yard shall be open and unobstructed except for accessory buildings as permitted herein and the ordinary projections of window sills, belt courses, cornices and other architectural features projecting not to exceed twelve inches (12") into the required side yard, and roof eaves projecting not to exceed twenty four inches (24") into the required side yard, except that no projection shall be permitted closer than twelve inches (12") to a common property line.

2.6 Court Standards – The minimum dimensions and area of outer or inner courts provided in buildings occupied for dwelling purposes shall be in accordance with the following provisions:

1. Outer Courts, Residential Structure – For residential structures thirty five feet (35') or

less in height, any outer court which is used for access of light or air or which may be used for emergency access purposes shall have a minimum width equal to the depth of the court; or twenty feet (20'), whichever is less

2. Inner Courts, Residential Structures - For residential structures thirty five feet (35') or less in height, any inner court which may be used for emergency access purposes shall have minimum dimensions in the length of the roof or eave at the top of the wall enclosing such court; but neither the width nor length of the base of such inner court need exceed thirty feet (30'), even though the height of the enclosing walls may exceed such dimension.

2.7 Parking Regulations – See Article XIII for minimum off-street parking requirements.

ARTICLE XIII PARKING REGULATIONS

SECTION 1 Purpose

It is the purpose of this section to establish the guidelines for minimum off-street parking space requirements consistent with the proposed land use to:

- 1.1 Eliminate occurrence of non-resident on-street parking in adjoining neighborhood;
- 1.2 Avoid the traffic congestion and public safety hazards caused by a failure to provide such off-street parking spaces.
- 1.3 Expedite the movement of traffic on public thoroughfares (n a safe manner and thus increasing the carrying capacity of the streets, reducing the amount of land required for streets and the cost to both the property owner and the City.

SECTION 2 Off-Street Parking and Loading Requirements:

2.1 Schedule of Off-Street Parking Regulations

<u>Type of Generator</u>	<u>Unit</u>	<u>Minimum Number of Spaces Per Unit</u>
One and Two Family Dwellings	Dwellings	2
Multi Family Dwellings and Townhouses	Dwellings	2
Rooming or Boarding Houses	Sleeping Rooms	½
Fraternity or Sorority	Beds	¼
Private Club or Lodge	Members	1/5
Church or Temple	Seat	1/5

School (Except High School or College)		
Seats in an Auditorium	Seat	1/10
Seat in Classroom	Classroom	3
Country Club Members or Golf Club	Members	1/5
Community Center, Library, Museum or Art Gallery		
0-2,00 Square Feet		
2,000+ Square Feet	Total	10
	Square Feet	1/300
Hospital	Beds	½
Sanitarium, Convalescent Homes, Home for the Aged, or Similar Institution	Beds	3
Theater or Auditorium (except school)	Seats	¼
Sports Arena, Stadium or Gymnasium	Seats	1/5
Hotel	Sleeping Rooms	1/3
Commercial Floor Area	Square Feet	1/200
Tourist Home, Cabin, Motel, or Hotel	Sleeping Rooms	2
Dance Hall, Assembly or Exhibit Hall	Square Feet	1/100
Business or Professional Office, Studio Bank, Medical or Dental Clinic		
0-1,000 Square Feet	Total	3
1,000+ Square Feet	Square Feet	1/200
Bowling Alley	Alley	4
Mortuary or Funeral Home	Seats	¼
Restaurant, Night Club, Cage or Similar Recreation or Amusement Establishment	Seats	1/3
Furniture or Appliance Store, Hardware Store, Wholesale Establishment Machinery or Equipment Sales and Service, Clothing or Shoe Repair, or Service Shop		
0-1,000 Square Feet	Total	2
1,000+ Square Feet	Square Feet	1/300
Printing or Plumbing Shop or Similar Service Establishment	Employees	1/3
Manufacturing or Industrial Establishment, Research or Testing Laboratory, Creamery, Bottling Plant, Warehouse, or Similar Establishment	Employees	½

2.2 Provisions for Determining the Number of Locations of Parking Spaces – In computing the number of such parking spaces required, the following rules shall govern:

1. “Floor Area” shall mean the gross floor area of the specific use.
2. Where fractional spaces result, the parking spaces required shall be rounded upward to the next whole number.

3. Whenever a building or use constructed or established after the effective date of this Zoning 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 percent (10%) 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 Zoning 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.
 4. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- 2.3 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 feet (300') from an institutional building served and not to exceed five hundred feet (500') from any other non-residential building served.
1. Up to one hundred percent (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 written agreement therefore is properly executed and filed as specified in paragraph 2.
 2. In any case 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.
- 2.4 Development and Maintenance of Parking Area – Every parcel of land, or portion thereof, hereafter used as public parking area, including commercial parking lots, driveways, internal streets, automobile, farm equipment, mobile 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 concrete, asphalt or 2 course chip seal with 6'' base, 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 Council.
 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

Any lighting used to illuminate an off-street parking area shall be arranged so as to direct or shield the light away from the view of on-coming traffic in any roadway adjoining the parking area.

3. Number of Off-Street Parking Spaces Required – The number of off-street parking spaces required shall be determined from Section 2 of this Article, Off-Street Parking Table and Off-Street Loading Regulations. The classification of uses referred to shall be deemed to include and apply to all use.
4. 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:
 - a. In General Business Districts, GB, one (1) loading space for the first five thousand square feet (5,000 SF) to fifteen thousand square feet (15,000 SF) of floor area in the building and one additional loading space for each fraction thereof of floor area in excess of fifteen thousand square feet (15,000 SF),
 - b. In Manufacturing Districts, M-1, one (1) loading space for each ten thousand square feet (10,000 SF) or fraction thereof of floor area in the building.
 - c. No more than three (3) off-street loading spaces shall be required for any General Business use, nor more than five (5) off-street spaces for any Manufacturing use.

SECTION 3

Exemption

- 3.1 Any property located within the City’s limits having land designated for agricultural use under Texas Tax Code Section 23.41, as amended from time to time (sometimes referred to a “1-D” exemption) or a “Qualified Open-Space Land” designation under Texas Tax Code Section 23.51, as amended from time to time (sometimes referred to as a “1-D-1” exemption), which may be combined with property designated as a residential homestead exemption under Texas Tax Code Chapter 11, and not otherwise engaged in a commercial enterprise other than agriculture, shall be exempt from the requirements of Article XIII.

ARTICLE XIV AMENDMENTS

SECTION 1

Statement of Intent and Amendment Limitations

- 1.1 Statement of Intent – For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the City, this Zoning Ordinance shall

not be amended except to correct error in the Zoning Ordinance, or because of changed or changing conditions in particular areas or in the City generally, or to rezone an area, extend the boundary of an existing zoning district or to change the regulations and restrictions thereof, all in accordance with the comprehensive plan.

1.2 Amendment Limitations – Subject to the limitations of the foregoing Statement of Intent, an amendment to this Zoning Ordinance may be initiated by:

1. The Council on its own motion;
2. The Commission; or
3. Petition by the owner of the property or a duly appointed representative of the owner.

SECTION 2 Changes and Amendments

2.1 Authority – The 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 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 Commission shall file a report and recommendation thereon with the Mayor and Council at least every three (3) years. The three (3) year time period shall commence upon the date of the adoption of this Zoning Ordinance.

SECTION 3 Procedure for Amendment Petition

3.1 Filing of Application – All petitions for amendments to this Zoning Ordinance shall be in writing, signed and filed with the City Secretary for presentation to the Commission at a regular or special meeting. The Application and the appropriate fees shall be paid to the City Secretary at least 30 days before the Commission meeting.

3.2 Contents of Petition – All petitions for amendments to this Zoning Ordinance shall contain at least the following:

1. The petitioner’s name, address, and interest in the petition, as well, as the name, address and interest of every person having a legal or an equitable interest in the land covered by the petition.
2. The nature and effect of the proposed amendment.
3. A fully dimensioned map showing the following shall be provided:

- a. The land which would be affected by the proposed amendment,
 - b. A legal description of such land,
 - c. The present zoning classification of the land,
 - d. The zoning classification of all abutting Zoning Districts, and
 - e. All public and private rights-of-way and easements bounding and intersecting the land under consideration.
4. If the proposed amendment would require a change in the Zoning Map, the names and addresses of the owners of all land within the area to be changed by the proposed amendment.
 5. The alleged error, if any, in this Zoning Ordinance, which would be corrected by the proposed amendment together with a detailed explanation of such error in the Zoning Ordinance, which is alleged and detailed reasons as to how the proposed amendment will correct the same.
 6. The changed or changing conditions, if any, in the area or in the City generally, that makes the proposed amendment reasonably necessary.
 7. Evidence that the petition is in accordance with the Comprehensive Master Plan.
 8. All other circumstances, factors, and reasons which applicant offers in support of the proposed amendment
- 3.3 Notice – Notice of any Hearing involving the Zoning Ordinance and the Map shall be given by publication once in a newspaper of general circulation in the City and designated as the official publication of the City, stating briefly the change or amendment to be considered at the Hearing and the time and place of such Hearing which shall be at least fifteen (15) days prior to the Hearing. Such notice shall be sent to the property owners as determined from the most recently approved City tax roll of real property lying within two hundred feet (200') of the property on which the change in classification or Specific Use Permit is proposed. Such notice shall be given not less than ten (10) days before the date set for the Hearing. The notice shall be made by depositing the same, properly addressed and postage paid, in the United States Post Office.
- 3.4 The members of the Planning Commission shall vote on each proposed change, amendment, or Specific Use Permit as to their recommendations to the Council for either adoption, adoption with modifications or denial. The recommendations of the City Commission shall be transmitted to the City Secretary for the Council within five (5) days following the meeting of the City Commission. In the event the development has not started within twelve (12) months, the petitioner for rezoning shall be notified in writing that the land shall revert to its original zoning within thirty (30) days of said notice. Extension may be granted for legitimate delays.
- 3.5 After receipt by the Council of the recommendations of the Commission, the Council shall,

at either a regular or a special meeting, after notice of the public hearing is published as provided in Section 3.3, act upon the proposed changes, amendments, or Specific Use Permits.

- 3.6 When a written protest against an amendment under consideration is filed with the office of the City Secretary and signed by the owners of twenty percent (20%) or more of either the area of the lots included in such proposed change or those immediately adjoining the same and extending two hundred feet (200') wherefrom such change, amendment or Specific Use Permit, supplement or repeal shall not become effective except by the favorable vote of four fifths (4/5) of the members of the Council.
- 3.7 If the City fails to pass an ordinance approving such proposed change, amendment or Specific Use Permit, supplement or repeal, a new application for such proposed change, amendment or Specific Use Permit, supplement or repeal in the Zoning Ordinance or the boundaries of the Map shall not again be considered until after the expiration of twelve (12) months from the date of such proposed change, amendment or Specific Use Permit, supplement or repeal was rejected; provided however, that such application may be reconsidered within the above mentioned twelve (12) month period if it be shown that a substantial change in conditions has taken place in the vicinity of the property sought to be rezoned or for which a Specific Use Permit was requested. The procedures and fees for such application for rezoning shall be the same as if the applicant has never filed a previous application for zoning change.

ARTICLE XV SPECIFIC USE PERMITS

SECTION 1 Authorized Uses

- 1.1 The Council, after the Hearing and proper notice given to all parties affected, in accordance with the notice procedures prescribed under Article XIV or amending the Zoning Ordinance, and after recommendation by the Commission, may authorize the issuance of Specific Use Permits for zoning specific uses set forth in Appendix A, Schedule of Uses, when situated within the Zoning Districts identified within the schedule .
- 1.2 Development Standards Required - The Commission in considering and determining their recommendation and the Council in considering any request for a Specific Use Permit may require from the applicant plans, information, operating data and expert evaluation concerning the location, function and characteristics of any building or use proposed. The Council may, in compliance with this Zoning Ordinance, establish conditions of operation, location arrangement and construction of any use for which a permit is authorized. In authorizing the location of any of the uses listed as Specific Use Permits, the Council may impose such development standards and safeguards as the conditions and location indicate important to the welfare and protection of adjacent property from excessive noise, vibration, dust , dirt, smoke, fumes, gas, odor, explosion, glare, offensive view, or other undesirable hazardous conditions.
- 1.3 Temporary Construction Buildings – 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 by the Building Official and subject to periodic renewal 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.

- 1.4 Temporary Development Signs – Temporary development and promotional signs not exceeding three hundred square feet (300 SF) in area may be erected on private property. The Building Official shall control the location and duration of such sign use to assure that the occupancy and use of adjacent lots are not interfered with and that no safety hazard is created. Such special development signs shall be removed after completion of the development or at the direction of the Building Official.
- 1.5 The Commission may impose additional reasonable restrictions or conditions to carry out the spirit and intent of this Zoning Ordinance and to mitigate adverse effects of the proposed use. These requirements may include, but are not limited to, increased open space, loading and parking requirements, suitable landscaping, and additional improvements such as curbing and sidewalks.
- 1.6 Any person or persons, jointly or severally aggrieved by a decision of the Commission, may present to the Council a petition, duly verified, setting forth that such decision is unjust, in whole or in part, specifying the grounds of injustice. Such petition shall be presented to the Council within ten (10) days after the final decision of the Commission and not thereafter.
- 1.7 Recording – One (1) copy of an approved Specific Use Permit shall be delivered to the owner of the property, one (1) copy each shall be filed with the City Secretary and in the office of the Building Official.
- 1.8 Development – Following the issuance of a Specific Use Permit, the Building Official shall insure that if the development is undertaken, it shall be completed in compliance with said permit. However, if a Specific Use Permit has not been used within six (6) months after the date granted, the permit shall be automatically cancelled, which fact shall be noted over the signature of the Building Official on the file copies of the permit, and the owner shall be so notified in writing.

ARTICLE XVI REGULATION OF NON-CONFORMING USES

SECTION 1 Continuance of Use

Any non-conforming use of land or structure may be continued for definite periods of time, subject to such regulations as the Council may require for immediate preservation of the adjoining property and the ultimate removal of the non-conforming use. If, however, a continuous operation is not carried on in such non-conforming use during a continuous period of six (6) months, the building, other structure or tract of land where non-conforming use previously existed shall thereafter be occupied and used only for conforming use. Intent to resume activity operation shall not affect the foregoing.

SECTION 2 Change of Use

A non-conforming use may be changed to any type of conforming use. A non-conforming use shall not be changed to any other type of non-conforming use without the prior approval of the Council which may grant a change of occupancy from one non-conforming use to another, provided the use is within the same or higher classification as the original non-conforming use, that such non-conforming use and occupancy will not tend to prolong and continue non-conforming use. A non-conforming 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 3 Damage and Destruction

A non-conforming 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 less than fifty percent (50%) of the value of repairing or rebuilding, the Building Official shall issue a permit for reconstruction, if greater than fifty percent (50%) and less than total, the Council 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 character of the areas surrounding the designated non-conforming use.

SECTION 4 Enlargement

A non-conforming use shall not be enlarged or extended, except upon authorization of the Council.

SECTION 5 Normal Maintenance

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

SECTION 6 Structural Changes

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

ARTICLE XVII HOME OCCUPATION

SECTION 1 Home Occupation

Home occupations are authorized within the City according to the provisions of this section.

- 1.1 A Home Occupation is Defined as Follows - Any occupation or activity carried on by a member or members of the immediate family residing on the premises, in connection with

which there is used no sign other than a personal family name plate not more than one square foot (1 SF) in area, and no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of dwelling, there is no commodity sold upon the premises, no person is employed other than member of the immediate family residing on the premises and no mechanical equipment is used except of a type that is similar in character to that normally used.

1.2 Fees- See Appendix D, Schedule of Fees.

ARTICLE XVIII
VARIANCES AND APPEALS

SECTION 1 Appeals

The Council shall hear and rule on all appeals to this Zoning Ordinance.

SECTION 2. Jurisdiction

When, in the judgment of the Council, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the Council may, in specific cases after public notice and public hearing, and subject to appropriate conditions and safe-guards, authorize and shall have the power to grant the following special exceptions to the regulations herein established. In granting such exceptions and regulations the Council shall not permit within any district a use that is not permitted in that district and the district regulations as set forth in this Zoning Ordinance. The Council shall not permit any variations or exception if the applicant has contributed to the cause of the u hardship of which he complains.

SECTION 3 The Council may allow the following:

- 3.1 The reconstruction of a building occupied by a non-conforming use, provided such reconstruction does not prevent the eventual return of such property to a conforming use, may be permitted.
- 3.2 The modifications of yard, open space, parking lot area or lot width regulations as may be necessary to secure appropriate development of a parcel of land may be permitted.
- 3.3 Requirement for the discontinuance of non-conforming uses of land (not primary structures), under any plan whereby the full value of any improvement can be amortized within a reasonable number of years, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this Zoning Ordinance.
- 3.4 The reduction of 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..
- 3.5 The decision of appeals where it is alleged there is error in the order, requirement, decision, or determination made by the Building Official in the enforcement of this Zoning Ordinance.

SECTION 4 Applications · Special Exceptions

All applications for special exceptions shall be by appeal to the Council. Appeals to the Council may be taken by any person aggrieved, or by any officer, department, board, or bureau of

the City affected by any decision of the officer. Such appeal shall be taken within a reasonable time as provided by the rules of the Council,! By filing with the officer from whom the appeal is taken and with the Council a notice of appeal specifying the grounds thereof The officer from whom the appeal is taken shall forthwith transmit to the Council all papers constituting the record in the matter being appealed.

SECTION 5 Stay of Proceedings

An appeal shall stay all proceedings in the matter appealed, unless the officer from whom the appeal is taken has certified to the Council that a stay would in his opinion cause imminent peril of life or property.

SECTION 6 Hearings of Appeals

The Council shall fix a reasonable time for the hearing of an appeal and shall give written notice to the parties of interest In addition, at least fifteen (I 5) days advance notice shall be given by publication at least once in the official publication of the City stating the time and place of such hearing, the parties appealing such matter and the lot description of the land which the matter concerns. The City Secretary shall mail notices of such hearings to the petitioner and owners of property lying within three hundred feet (300')of any point of land on which a variance is desired and to all other persons deemed by the Council to be affected thereby. Such owners and persons shall be determined according to the current tax rolls of the City. In exercising its powers, the Council may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four-fifths (4/5) of the members of the Council shall be necessary to reverse any order, requirement, decision or determination of any building inspector, The concurring vote of four-fifths (4/5) of the members of the Council shall also be necessary to decide in favor of an applicant on any matter upon which the Council is required to pass upon under this Zoning Ordinance other than an appeal.

SECTION 7 Court Appeal.

Any person or persons, jointly or severally aggrieved by any decision of the Council, or any tax payer 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 Council.

1. Writ of Certiorari – Upon the presentation of such petition, the court may allow a writ of certiorari directed to the Council to review such decision of the Council and shall prescribe therein the time within which a return thereto must be made and served, which shall not be less than ten (I0) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Council, and on due cause shown, grant a restraining order.
2. Return of Certified Copies – The Council shall not be required to return the original papers

acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The returned copies shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be certified. If upon the hearing it shall appear to the court that testimony is necessary for the proper disposition of the matter, the court shall take evidence, appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The Court may reverse, wholly or partly, or may modify the decision brought up for review. Cause shall not be allowed against the Council unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from. All issues in any proceeding under this Article XVIII shall have preference over all other civil actions and proceedings. *As Acts 1961, 57th Leg, Pg. 687, Chap. 32, Para 1.*

3. Fees – See Appendix D, Schedule of Fees.

ARTICLE XIX ENFORCEMENT / ENFORCEMENT OFFICER/ ENACTMENT

SECTION 1 Enforcement

1. Enforcement Officer – The provisions of this Zoning Ordinance shall be administered and enforced by the Building Official of the City.
2. Right to Enter – The Building Official 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 Zoning Ordinance.
3. Stop Orders – Whenever any building work is being done contrary to the provisions of this Zoning Ordinance, the Building Official 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 2 Violation and Penalties

1. Any person, firm or corporation who shall violate any of the provisions of this Zoning Ordinance or fail to comply there with or who shall violate or fail to comply with any order or regulations made there under, or who shall build in violation of any detailed statement of specification of plans submitted and approved there under, or any certificate or permit issued there under, 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 the legal maximum. Each and every such violation and/or noncompliance shall exist shall be

deemed a separate offense. In the event of a conviction for violating any of the provisions herein, the offender shall be punished by a fine of not less than \$200.00 nor more than \$2000.00 for each such violation.

2. But in case any person, firm or corporation violates any of the provisions of this Zoning 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 Zoning 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.

SECTION 3 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 4 Severability Clause

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

ARTICLE XX EFFECTIVE DATE

This Zoning Ordinance shall become effective from and after the date of its approval and adoption as provided by law.

PASSED, APPROVED AND ADOPTED this the 19th day of December , 2011, with an effective date of the 19th day of December , 2011

**APPENDIX A
SCHEDULE OF USES**

(Item Mark with (*) a Specific Use Permit is Required)

PREDEVELOPMENT DISTRICT (PD)

Un-zoned – Specific Use Permit Required

SINGLE FAMILY DWELLING DISTRICT (R-1)

Dwelling, Single Family

Church*

Day Nursery/Kindergarten*

New and Unscheduled Uses as Provided for Under Article II, Section 4

Park/Playground/Similar Public Site

Public Recreation Center*

Schools*

***Specific Use Permit Required**

TWO FAMILY DWELLING DISTRICTS (R- 2)

One Family Dwelling Detached

One Family Dwelling Attached (Town House)- See Provisions Article VI to “Town House”

Dwelling, Duplex

Multi-Family Apartment Dwelling

Boarding or Rooming House

Church*

Day Nursery/Kindergarten

New and Unscheduled Uses as Provided for Under Article H, Section 4

Park/Playground/Similar Public Site

Public Recreation Center*

***Specific Use Permit Required**

APARTMENT/MULTI-FAMILY DWELLING DISTRICT (R- 3)

One Family Dwelling Detached

One Family Dwelling Attached (Town House)- See Provisions Article VII

Two Family Dwelling

Dwelling, Multi-Family

SINGLE FAMILY DWELLING MANUFACTURED HOUSING DISTRICT (R- 4)

Manufactured Home (as restricted b Article VIII, Section 4)

Dwelling, Single Family

Dwelling, Duplex

Dwelling, Single Family, Townhome

Church*

Country Club*

Day Nursery /Kindergarten *

New and Unscheduled Uses as Provided for Under Article II, Section 4

Park/Playground/Similar Public Site

Public Recreation Center*

Schools*

*** Specific Use Permit Required**

GENERAL BUSINESS (GB)

Airport, Heliport or Landing Field*

Amusement, Commercial or Outdoor/Indoor

Animal Clinic or Pet Hospital (No Outside Pens)

Antique Shop

Appliance Sales/Repair

Art Supply Store

Auto Laundry

Auto Painting and Body Shop

Auto Parts Sales (in Building)

Auto Sales - New or Used Car Lot (Open)

Bakery/Confectionery Shop (Retail Sale)

Bakery/Wholesale

Bank or Savings and Loan Office

Barber and Beauty Shop

Boarding or Rooming House

Book and Stationery Store

Building Material Sales

Cabinet or Upholstery Shop

Cafeteria/Restaurant/Drive-In Restaurant

Camera Shop

Car Wash

Civic Center

Cleaning/Laundry Pick-Up Station

Cleaning/Laundry Self-Service Shop

Cleaning Shop/Laundry, Commercial

Clinic, Medical or Dental
 Commercial Parking Lot or Parking Garage
 Convenience Store
 Country Club
 Dance Hall/Night Club
 Day Nursery/Kindergarten
 Department Store/Discount House
 Drive-In Theater
 Drug Store/Pharmacy
 Fairgrounds
 Florist Shop
 Fraternity or Sorority Lodge or Civic Club
 Furniture Store
 Game Rooms * Subject to special regulations under Appendix "H"
 Garden Shop and Plant Sales
 Gasoline Service Station
 Grocery Store
 Handicraft and Art Object Sales
 Hardware Store
 Heating/Air Conditioning (Retail)
 Hobby Shop
Home for Alcoholic, Narcotic or Psychiatric Patients*
 Hospital
 Hotel or Motel
 Institution of Religious or Philanthropic Nature
 Key Shop
 Laboratory, Medical or Dental
 Laboratory, Scientific or Research
 Library/Art Gallery/Museum
 Maintenance and Repair Services
 Medical Appliance Fittings and Sales
 Mortuary
 New and Unscheduled Uses as Provided for Under Article II, Section 4
One Family Dwelling *
 Optical Shop
 Package Store
 Paint Shop (Retail)
 Pawn Shop
 Personal Custom Services such as Tailor/Milliner Related
 Pet Shop - Small Animals, Birds, Fish
 Plumbing Shop (Retail)
 Print Shop
 Private Club
 Private Tennis Swim Club
 Professional Office
 Public Recreation Center
 Radio or TV Transmitting Station- Commercial

~~Radio, or Television or Microwave towers *~~
Railroad/Bus Passenger Station Residence Home for Aged
Recreational Vehicle Park, but not within 150 feet of U.S. Highway 181 or Farm-to- Market Hwy 541
Retail Shops, Apparel Accessories, Gifts and Similar Consumer Items
Seat Cover or Muffler Installation Shop
Sexually Oriented Business ** Subject to special regulations under Appendix "F"
Shoe Repair
Social and Recreational Building
Storage Warehouse
Studio, Decorator and Display of Art Objects
Studio, Photographer, Artist, Music, Drama, Dance
Swimming Pool (Private)
Tavern
Telephone Business Office
Trade Commercial Schools
Trailer and Mobile Home Sales or Rental Only
Travel Bureau or Consultant
Variety Store

***Specific Use Permit Required**

MANUFACTURING DISTRICT (M - 1)

Accessory Building, Residential
Airport, Heliport or Landing Field
Agricultural Animal Husbandry*
Agricultural Field Crops*
Amusement, Commercial - Outdoor/Indoor
Animal Clinic or Pet Hospital (No Outside Pens)
Antique Shop
Any Manufacturing Industrial Storage or Assembling Process Not Prohibited By Law - See Provisions Article X*
Art Supply Store
Auto Laundry
Auto Painting and Body Shop
Auto Sales and Repair (In Building)
Auto Sales/New or Used Car Lot (Open)
Bakery/Confectionery Shop (Retail Store)
Bakery Wholesale
Bank or Savings and Loan Office
Barber and Beauty Shop
Book and Stationery Store
Building Material Sales
Cabinet or Upholstery Shop

Cafeteria/Restaurant
Camera Shop
Civic Center
Cleaning/Dyeing/Laundry Plant, Commercial
Cleaning/Laundry Pick-Up Station
Cleaning/Laundry Self-Service Shop
Cleaning Shop/Laundry
Clinic, Medical or Dental
Clothing Manufacturing/Similar Light Manufacturing Process
Commercial Parking Lot or Structure Auto
Contractors Storage/Equipment Yard
Country Club
Dance Hall/Night Club
Department Store/Discount House
Drag Strip*
Drive-In Theater
Drug Store/Pharmacy
Fairgrounds
Farm Accessory Building
Farm, Ranch or Orchard*
Florist Shop
Furniture Appliance Store
Garden Shop and Plant Sales
Gasoline Service Station
Grocery Store
Handicraft and Art Object Sale
Hardware Store
Heavy Machinery Sale/Storage/Rep.
Hobby Shop
Key Shop
Laboratory, Manufacturing
Laboratory, Medical or Dental
Laboratory, Scientific or Research
Letter/Mimeograph Shop
Library/Art Gallery/Museum
Lithographer/Print Shop
Maintenance and Repair Service
Medical Appliances, Fittings and Sales
Milk Depot Dairy/Ice Cream Plant
Mortuary
New and Unscheduled Uses as Provided for Under Article II, Section 4
Off-Street Parking (Incidental to Main Use)
Open Storage and Sale of Furniture Appliances and Machinery
Optical Shop
Package Store
Paint Shop (Retail) Parking Lot/Truck Storage

Park/Playground/Similar Public Site
 Pawn Shop
 Personal Custom Services Such as Tailor/Milliner Related
 Pet Shop Small Animals, Birds, Fish
 Plumbing Shop (Retail)
 Private Club
 Private Tennis Swim Club
 Professional Office
 Public Recreation Center
 Radio or TV Transmitting Station - Commercial
 Radio, TV, or Microwave Towers
 Railroad/Bus Passenger Station
 Railroad Team Track/Freight Depot Railroad Rights-of-Way and Track
 Recreational Vehicle Park, but not within 150 feet of U.S. Highway 181 or Farm-to- Market Hwy 541
 Repair of Appliances, TV, Radios, and Similar Equipment
 Retail Shops, Apparel Accessories, Gifts and Similar Consumer Items
 Sale and Service, New and Used Auto Accessories and Parts (In Building)
 Sale New Auto Parts (In Building)
 Seat Cover or Muffler Installation Shop
Servant or Caretaker Quarters*
 Shoe Repair
 Social and Recreational Building
 Storage Warehouse
 Studio, Decorator and Display of Art Objects
 Studio, Health Reducing or Similar Service
 Studio, Photographer, Artist, Music, Drama, Dance
Swimming Pool (Private)*
 Tavern
 Telephone Business Office
Temporary wireless communications facility (temporary WCF)
 Tire Retreading and Capping
Tower
 Trade Commercial Schools
 Trailer and Mobile Home Sales or Rental Only
 Transfer Storage and Baggage Terminal
 Travel Bureau or Consultant
 Variety Store
 Veterinarian Hospital or Kennel (Outside Pens)
 Veterinarian Office (No Animal Hospital)
 Welding or Machine Shop
Wireless communications facility (WCF)
Wrecking or Salvage Yard for Autos or Parts*

*** Specific Use Permit Required**

APPENDIX B DEFINITIONS

For the purpose of this Zoning Ordinance, certain words as used herein are defined as follows:

Accessory Building or Use - An Accessory Building or Use is one which:

1. Is subordinate to and serves a principal building or principal use,
2. Is subordinate in area, extent or purpose to the principal building or principal use served,
3. Contributes to the comfort, convenience, and necessity of occupants of the principal building or principal use served and/or
4. Is located on the same building lot as the principal building or principal use served.

Accessory, when used in the text, shall have the same meaning as accessory use. An accessory building may be part of the principal building.

Alley - An alley is a public right-of-way which affords a secondary means of access to abutting property.

Apartment - An apartment is a room or group of rooms in an apartment building used as a dwelling for one (1) family unit which does its cooking therein.

Apartment Building - A building or portion thereof used or intended to be used as a home for three (3) or more families or households living independently of each other and equipped for preparation of food.

Basement - A story (or portion of a story) partly below curb level, with a least one-half of its height (measured from floor to ceiling) below the curb level. The curb level nearest to a story (or portion of a story) shall be used *to* determine whether such story (or portion of a story) is a basement.

Boarding House - A building other than hotel, motel, or an apartment hotel where, for compensation and prearrangement for a definite period, meals or lodging and meals are provided for three or more persons, but not exceeding twenty persons.

Block - A tract of land bounded by streets or a combination of streets and public parks or corporate boundaries of the City.

Building- Any structure which:

1. Is permanently affixed to the land.
2. Has one or more floors and roof.
3. Is bounded by either open area or the lot lines.

A building shall not include such structures as billboards, fences or radio towers or structures with interior surfaces not normally accessible for human use, such as tanks, smokestacks, grain

elevators, oil cracking towers or similar structures.

Building. Detached - A building which is surrounded by yards or open space on its building lot.

Building Area - The total square footage on a lot covered by a building measured on a horizontal plane at mean grade level.

Building Envelope - The net square footage on a lot that remains for placing a structure on a site after the building line, setback, side yard, height and bulk regulations are observed.

Building Height - The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, or gambrel roof

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 Official - The officer or other designated authority charged with the administration and enforcement of this Zoning Ordinance or his duly authorized representative.

Building Plot - The land (lots, or tract of land) upon which a building or buildings are located, or upon which they are to be constructed, including yards, and bounded by the property line.

Buffer Zone - A strip of land created to separate and protect one type of land use from another.

Cabin - A permanent structure built on site and not of a portable nature, containing at least three hundred (300) square feet and not more than five hundred (500) square feet, containing a restroom and a sleeping area. Any cabin constructed or maintained on the property shall comply with all City of Poth regulations for hotel/motel development to be located in a general business district.

The City- The City of Poth, Texas.

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.

Club or Lodge - An association of persons for the promotion of some non-profit common objective, such as literature, science, politics, good fellowship and similar objectives which meets periodically and which is limited to members.

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, 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.

Common Area - Any area that is directly accessible to the public or all tenants of the Recreational Vehicle Parle

Common Property - A parcel 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.

The Commission - The Planning and Zoning Commission of the City of Poth, Texas.

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

The Council- The City Council of the City of Poth, 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.

Convalescent Home - Any structure used or occupied by three (3) or more persons recovering from illness or receiving geriatric care for compensation.

Corner Lot - A lot abutting upon two (2) or more streets at their intersection.

District-Any section of the City for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are in uniform.

Duplex – A building on an individual lot with a common wall between dwellings which is arranged, intended, or designed for occupancy by two families living independently of each other in an attached structure.

Dwelling - Any building or portion thereof which is designed for or used for residential purposes and built primarily onsite in the traditional manner (“stick built”), together with Accessory Buildings.

Dwelling Multi-Family - A building or portion thereof constructed for or occupied by three or more families and containing three or more dwelling units.

Dwelling, Single Family-A building designed for or to be occupied exclusively by one family.

Dwelling, Duplex - A building designed for or to be occupied exclusively by two families.

Dwelling Unit - A room or suite of two or more rooms designed or intended for use by an individual or family in which culinary and sanitary conveniences are provided for the exclusive use of such individual or family.

Dormitory - Any structure specifically designed to house student tenants associated with a university, college, or school.

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" districts.

Filling, Retail Service Station - An establishment where gasoline, oil, and grease or automobile accessories are sold, supplied or dispensed to the motor vehicle trade or where motor vehicles receive limited repair, are equipped for service or where electric storage batteries are charged and cared for or a place where any two (2) or more such activities are carried on or conducted as the principal use of the establishment.

Fraternity, Sorority or Group Student House - A building occupied by and maintained exclusively for students affiliated with an academic or vocational institution.

Frontage - All the property on one side of a street between two intersection 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.

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 personally owned motor-driven vehicles owned and used by the occupants of the building to which it is necessary. Not more than one (1) of the vehicles may be a commercial vehicle of not more than two-ton (2 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.

Home Occupation - Any occupation or activity carried on by member of the immediate family, residing on the premises, in connection with which there is used no sign other than a personal family name plate not more than one square foot (1 SF) in area, or no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises, no person is employed other than a member of the immediate family residing on the premises; and no mechanical equipment is used except of a type that is similar in character to that normally used for purely domestic or household purposes.

Hospital. Sanitarium. Nursing or Convalescent Homes - A building or portion thereof; used or designed for the housing or treatment of the sick, aged, mentally ill, injured, convalescent or infirm persons; provided that this definition shall not include rooms in any residential dwelling, hotel, apartment hotel not ordinarily intended to be occupied by said persons..

Hotel - A building used or intended to be used as living quarters for transient guests, but not excluding permanent guests, and may include a cafe, drugstore, clothes pressing shop, barber shop or other service facilities for the guests for compensation and have 24 hour staff onsite.

Industrialized Housing – is a residential structure that is (1) designed for occupancy of one or more families; (2) constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and (3) designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site erected or installed on a permanent foundation system, and includes the structure’s plumbing, heating, air conditioning and electrical systems. Industrial Housing does not include (1) a residential structure that exceeds three stories or 49 feet in height; (2) housing constructed of a sectional or panelized system that does not use a modular component, of (3) a ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

Industrialized Building – is a commercial structure that is (1) constructed in one or more modules or constructed using one or more modular components built at a location other than the commercial site; and (2) designed to be used as a commercial building when the module or the modular component is transported to the commercial site and erected or installed and includes the structure’s plumbing, heating, air conditioning and electrical systems. An Industrialized Building includes a permanent commercial structure and a commercial structure designed to be transported from one commercial site to another commercial site but does not include (1) a commercial structure that exceeds three stories or 49 feet in height, or (2) a commercial building or structure that is (a) installed in a manner other than on a permanent foundation; and (b) either, (i) not open to the public; or (ii) less than 1,500 square feet in total area and used other than as a school or a place of religious worship.

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 construction endeavors, object lessons and helpful games are prominent features of the curriculum..

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

Lot - As used herein, a lot is the physical and undivided tract or parcel of land 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 one hundred thirty-five degrees (135°) 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 one hundred thirty five degrees (135°).

Lot. Double Frontal - 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 Wilson County; or a parcel of land, the deed of which was recorded in the office of the County Clerk of Wilson County .

The Map - The Official Zoning Map of the City of Poth, Texas.

Manufactured Home - Means a structure: (i) constructed after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development; (ii) built on a permanent chassis; (iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; (iv) transportable in one or more sections; and (v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and includes the plumbing, heating, air conditioning and cooling systems of a home.

Mobile Home - Means a structure (i) constructed before June 15, 1976, according to the rules of the United States Department of Housing and Urban Development; (ii) built on a permanent chassis; (iii) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; (iv) transportable in one or more sections; and (v) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or,

when erected on site, at least 320 square feet, and includes the plumbing, heating, air conditioning and cooling systems of a home.

Mobile Home Development - A unified development of mobile homes placed on individually owned lots.

Modular Component – means a structural part of housing or a building constructed at a location other than the building site in a manner that prevents the construction from being adequately inspected for code compliance at the building site without (1) damages; or (2) removal and reconstruction of a part of the housing or building.

Motel or Motor Hotel - A building or group of buildings including either separate units or a row of units which contain sleeping accommodations primarily for transient occupancy and provide off-street parking space on the same building lot for use of its occupants and have 24 hour staff onsite .

Multiple Building Complex - More than one (1) principal building on a building plot.

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 was in existence prior to the effective date of this Zoning Ordinance.

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

Open Space - The part of the countryside which has not been developed and which is desirable for preservation in its natural state for ecological, historical, or recreational purposes, or in its cultivated state to preserve agricultural, forest or urban greenbelt areas.

Parking Space - A surfaced area, enclosed or unenclosed, sufficient in size to store one automobile, with a surfaced driveway connecting the parking space with the street or alley and permitting ingress and egress of an automobile. A parking space shall not occupy any public land.

Permit- A permit is an official document or certificate issued by the authority having jurisdiction authorizing performance of a specified activity.

Planned Unit- A land area which

1. Has individual building sites and common property such as a park, and
2. Is designed to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property.

The ownership of the common property may be either public or private.

Plot Plan - A plan showing the use of the land, to include locations of buildings, drives, sidewalks, parking areas, drainage facilities and other structures to be constructed.

Private Drive - Streets or drives within the Recreational Vehicle Park.

Recreational Vehicle - Recreational Vehicle shall have a meaning assigned to it by Section 541.201 of the Transportation Code of the State of Texas.

Recreational Vehicle Lot - (Also known as a Recreational Vehicle Parcel) A parcel of land in a Recreational Vehicle Park set aside for the placement of a single Recreational Vehicle and for the exclusive use of its occupants. All lots shall remain owned as one parcel by the owner of the Recreational Vehicle Parle

Recreational Vehicle Pad - That area of a Recreational Vehicle lot intended for the placement of a Recreational Vehicle.

Recreational Vehicle Park - A parcel of land under single ownership upon which two or more Recreational Vehicle lots are located established or maintained for occupancy by Recreational Vehicles not owned or controlled by the owner of the land, and the general public pays a fee strictly for space to park their Recreational Vehicle for use as temporary living quarters. The owner of the Park may utilize portions of the park for amenities for the tenants of the park such as laundry rooms, restaurants, park and recreational areas or other amenities so long as all such amenities otherwise comply with all city, state and federal legal requirements .

Retail Food Store - A retail establishment selling meats, fruits, vegetables, bakery products, dairy products, light hardware, and other similar items which are purchased for use and/or consumption off the premises (may be a d rive-in or supermarket type).

Right-of-Way Line - A dividing line between a lot, tract or parcel of land and a contiguous street.

Rooming House - A group of rooms provided for compensation either in a converted single-family home or in a structure specifically designed for such purpose. No cooking facilities are provided in individual living unit s,

Rooming and Boarding House - A group of rooms where both rooms and meals are provided for compensation for more than four (4) persons.

Satellite Television Signal Receiving Dish - A ground-mounted device commonly parabolic in

shape, mounted at a fixed point on the ground for the purpose of capturing television signals transmitted via satellite communications facilities and serving the same or similar function as the common television antenna, is herein defined as accessory structures.

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 - A composite arrangement of shops and stores which provides a variety of goods and services to the general public, when developed as an integral unit.

Sign. Advertising - A poster, panel, painted bulletins, or other advertising devices which promote and advertise commodities or services not limited to being offered on the premises where such sign is located.

Sign. Business - A graphic device which advertises only commodities or services offered on the premises where such sign is located.

Sign. Church, and School - Name plates and bulletin board for schools and churches located on premises, but not exceeding thirty square feet (30 SF) in area and not a flashing, intermittent, revolving, or similar lighted type.

Free Standing Sign - A free-standing sign supported by a single vertical support anchored or set in the ground, no exposed face of which exceeds sixty-four square feet (64 SF) in surface area.

Sign. Real Estate - Temporary signs pertaining to the sale or rental of property upon which they are located, not exceeding twenty square feet (20 SF) in area and advertising property only for a use which it is legally zoned.

Storage Garage - A storage garage is any premise and/or structure designed exclusively for the storage of automobiles.

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

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

Street Line - See Rights-of-Way Line.

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.

Structural Alterations - Any change of a supporting member of a structure such as bearing walls, columns, beams, or girders.

Temporary wireless communications facility (temporary WCF) means a WCF to be placed in use for 120 or fewer days.

Tower means a stand-alone structure consisting of a support structure, antenna, and associated equipment. The support structure may be a wooden pole, monopole, lattice tower, light standard, or other vertical support.

Town House - A single family Dwelling on an individual lot which is one of a series of Dwelling Units having one or two common walls with the other units in the series.

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 of performance of such activity with respect to the performance standards of this Zoning Ordinance.

Variety Store - A retail commercial establishment which supplies a variety of household goods, toys, light hardware items, candy, some clothing and other general merchandise se.

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.

Wireless communications facility (WCF) means any unstaffed facility for the transmission and/or reception of wireless telecommunications services usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation.

Wrecking or Salvage Yard - A place where waste, discarded or salvage materials are brought, sold, exchanged, baled, packed, dissembled or handled, including auto wrecking yards, house salvaged materials of house wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building and not including pawn shops and establishments for the sale, purchase or storage of used furniture and household equipment when conducted entirely within a completely enclosed building, sale of used cars in operating condition or salvaged materials incidental to a manufacturing operation .

Yard - An open 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 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 as parallel with 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.

Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

APPENDIX C
CRITERIA FOR PROPOSED CONSTRUCTION OF MANUFACTURED HOUSING
PERMANENT FOUNDATION

1. They shall be permanently attached to a site-built permanent foundation by anchoring devices adequate to resist all loads due to resistance to ground movements, seismic shaking, potential shearing, overturning, and uplift loads caused by wind and earthquake.

Anchoring straps or cables affixed to ground anchors, other than footings, shall not meet this requirement. The unit shall be anchored through the foundation to the footing.
2. They shall have permanent utilities, installed, and protected from freezing.
3. The towing hitch or running gear shall be removed (including tongues, axles, brakes, wheels, lights, and other parts of the chassis that operate only during transportation.). The chassis shall not be removed from a manufactured unit.
4. There shall be a properly enclosed crawl space with a continuous permanent foundation-type construction (similar to a conventionally built foundation). The perimeter enclosure, if separate from supporting the foundation, shall:
 - a. Be designed to resist all forces to which it may be subject without transmitting to the building superstructure any movements or effects caused by frost heave, soil settlement (consolidation) or the shrinking or swelling of expansive soil.
 - b. Be adequately secured to the perimeter of the unit to exclude entry of vermin and water.
 - c. Allow proper ventilation of the crawl space.

**MANUFACTURED HOUSING
TYPICAL CONCRETE PIER FOUNDATION
PROPOSED CONSTRUCTION
GENERAL NOTES**

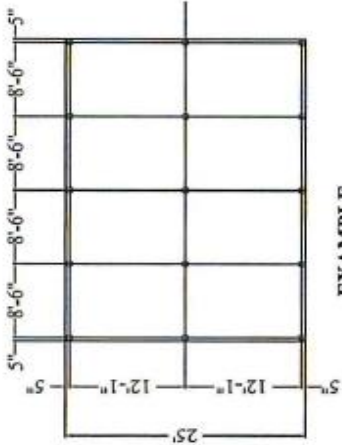
1. Provide a foundation plan showing number and spacing, by dimensions, of all piers.
2. The minimum compressive strength (f_c) of concrete shall not be less than 2,500 psi when tested at 28 days by a certified engineering materials laboratory.
3. Pier size shall be 10" round or square with one #5 rebar full length.
4. Minimum depth of footing shall be 30" below grade unless stable rock formation is encountered at a lesser depth. If fill is encountered, extend at least 6" into natural undisturbed soil which will provide adequate bearing and add additional pier reinforcing if necessary due to longer pier stem.
5. Minimum thickness of pier footing shall be 8".
6. Minimum footing projection shall be 5".
7. Footing reinforcing shall be required when footing projection exceeds $2/3$ of footing depth.
8. In lieu of fanned piers, 10" diameter drilled piers with a minimum of 20" under-ream and one #5 rebar full length may be used,
9. Indicate how the house structure is anchored to the piers.
10. Where steel I-beams are integral with the manufactured house, show size and how they are attached to the structure and to the piers. Also show maximum spacing of supports (piers) allowable for the I-beams used.
11. Indicate or specify the material used for underpinning or skirting.
12. Crawl space: Ground level shall be at least 18" below bottom of wood floor joists. This height shall be increased to 24" where access is required for maintenance and repair of any mechanical equipment located in the under-floor space.
13. Venting of Crawl Space:
 - a. Vents shall be covered with $1/8$ " to $1/2$ " corrosion resistant wire mesh.
 - b. One opening shall be provided within 3' of each corner.
 - c. Provide not less than 1 square foot of ventilating area for each 150 square feet of crawl space area, or provide 1 square foot of ventilating area for each 1,500 square feet when the ground area is covered with a vapor retarder material such as 6-mil polyethylene plastic.
14. Crawl space area shall be 4" to 6" above the outside finish grade unless.

- a. adequate gravity drainage to a positive outfall is provided, or
 - b. drain tile and an automatic sump pump system are installed
15. Chemically treat the soil to provide protection against subterranean termites. The rate of application of the approved chemicals shall be not less than that recommended by the U.S. Department of Agriculture publication entitled, "Subterranean Termites, Home and Garden Bulletin 64".

APPENDIX C

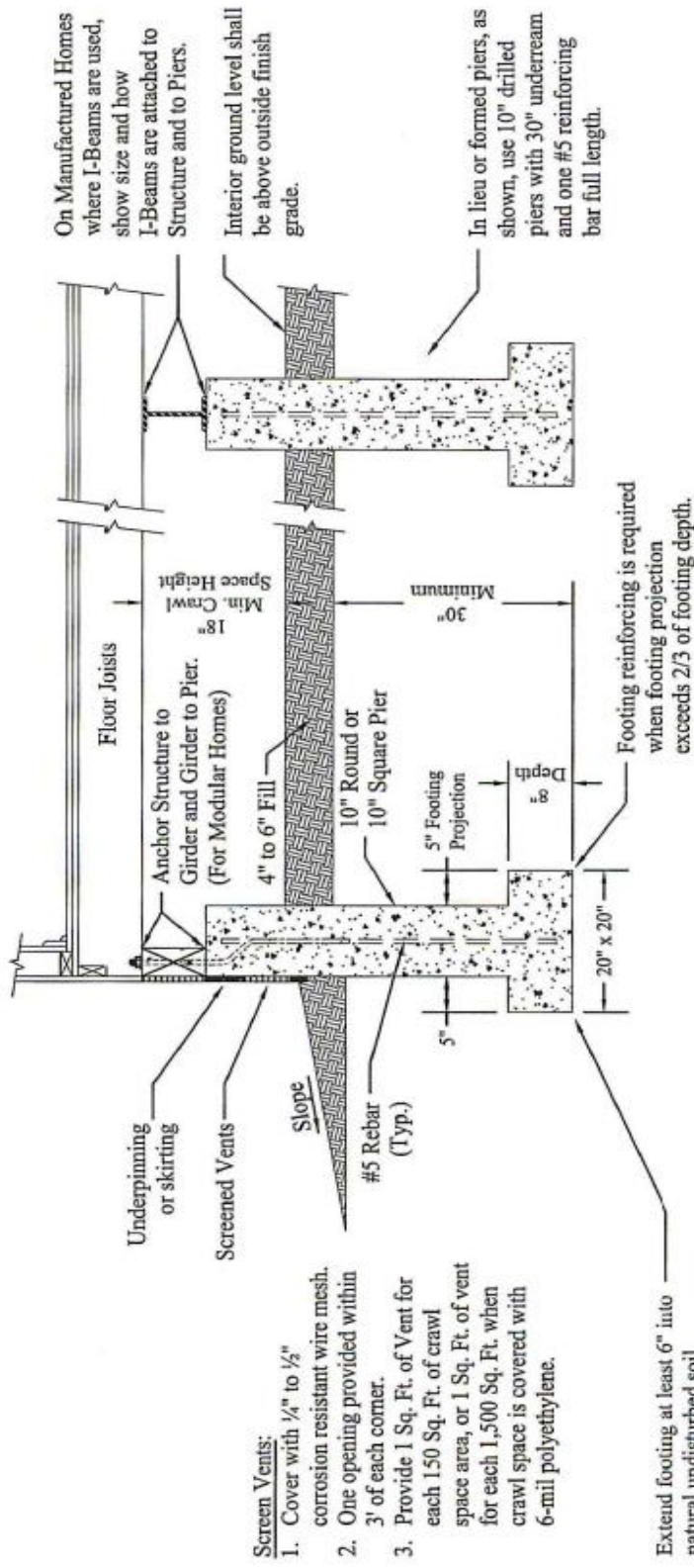
NOTES:

1. Treat soil for subterranean termites.
2. Minimum compressive strength (f'c) of concrete shall be 2,500 p.s.i. at 28 days.



EXAMPLE

EXAMPLE ONLY:
Provide foundation plan showing number and spacing, by dimension, of all piers.



- Screen Vents:**
1. Cover with 1/4" to 1/2" corrosion resistant wire mesh.
 2. One opening provided within 3' of each corner.
 3. Provide 1 Sq. Ft. of vent for each 150 Sq. Ft. of crawl space area, or 1 Sq. Ft. of vent for each 1,500 Sq. Ft. when crawl space is covered with 6-mil polyethylene.

Revised 8/30/86

**MANUFACTURED HOUSING
CONCRETE PIER FOUNDATION**

DEPT. OF HOUSING & URBAN DEVELOPMENT
SAN ANTONIO OFFICE
800 DELAROSA
SAN ANTONIO, TX 78207

ARCH. ENG. & CONST. BRANCH (210) 229-6350

NOTE: Variations to the concrete pier type foundation shown here shall include the following certification near the design engineer's seal and signature: "This foundation was designed for soils conditions at this site."
Legal Description: _____

**APPENDIX D
SCHEDULE OF FEES**

The following fee shall be collected by the City when any change of zoning is tendered to the City for consideration and approval. Such fee shall accompany the application and no action of the Commission shall be valid until the filing fee has been paid. This fee shall not be refunded to the Applicant should the plat be disapproved.

\$200.00

**APPENDIX E
Special Regulations Related to Recreational Vehicles**

1.1 Location of Recreational Vehicles

Recreational Vehicles shall be located either: (a) in a Recreational Vehicle Park, or (b) at the residence dwelling of the owner of the Recreational Vehicle so long as such placement at the residence dwelling of the owner is in accordance with the provisions hereof.

If located at the residence dwelling of the owner of the Recreational Vehicle, such Recreational Vehicle shall be required to be subject to the following requirements:

1. Such Recreational Vehicle shall not be utilized as a residence on an indefinite basis for any individual, nor shall it be used for any purposes other than temporary camping or overnight stay. Such Recreational Vehicle shall not in any manner ever be used as regular living quarters or for business purposes.
2. Such Recreational Vehicle must be located on the property of the owner of the Recreational Vehicle and may not be left in any road, street, or highway of the City of Poth, nor may it protrude at any degree whatsoever into a street, highway, or road of the City of Poth. Such Recreational Vehicle must be placed entirely upon property of the owner, and must be located within such property so that it is at least seven (7') feet from any property line or street line.

1.2 Regulations of Recreational Vehicle Parks

The following Regulations shall apply to Recreational Vehicle Parks as permitted by a permit granted by the City Council.

1. The maximum density for a Recreational Vehicle Park is twenty spaces per acre.
2. Setbacks for all Recreational Vehicle Parks shall be as follows:
 - a. Front 20 feet
 - b. Sides 5 feet

- c. Rear 10 feet
 - d. Corner side 15 feet
3. Lots within Recreational Vehicle Parks shall be rented on a temporary basis not to exceed one hundred eighty (180) consecutive days or three hundred (300) cumulative days in a calendar year *to* the same tenant.
 4. The Recreational Vehicle Park as a whole shall be enclosed by a solid six (6') foot or higher screening wall or fence constructed as not to restrict visibility at the park entrance and exit.
 5. All Recreational Vehicle Parks shall have an onsite office with staff or designated host on duty for at least eight (8) hours a day on weekdays and available on weekends.
 6. Recreational vehicle parks may have but are not required to have permanent laundry facilities, a store selling sundries, or a common recreational building.
 7. The owner of a Recreational Vehicle Park or his or her designee shall maintain a register of all occupants of the park showing full name, permanent address, vehicle registration numbers, and date of arrival and departure of every park occupant This register will made available to the Building Official or Public Works Director during normal working hours and to all law enforcement officers on request.
 8. No Recreational Vehicle Parks will be constructed within one hundred fifty (150') feet of U. S. Highway 181 or within one hundred fifty (150) feet of State Farm-to-Market Highway 541 within the city limits. Further, Recreational Vehicle Parks may be constructed solely in areas identified by the Planning and Zoning Ordinance of the City of Poth as a "General Business District (GB)", a "Manufacturing District, MI", or an Overlay District.
 9. No persons identified as an offender of sexual offenses by the website of the Texas Department of Public Safety or any other state or federal jurisdiction shall be permitted to be residents of a Recreational Vehicle Park herein.
 10. All roadways within and leading to any Recreational Vehicle Park shall be paved in accordance with the standards established by the City of Poth for streets in residential (R-1) subdivisions.

1.3 Design Standards

Recreational Vehicle Lots:

1. All lots within a Recreational Vehicle Park shall be permanently marked and numbered.
2. A Recreational Vehicle Lot must contain a minimum of one thousand (1,000) square feet with a minimum width of twenty-five (25') feet.
3. All lots must have twenty (20') feet of frontage on a private drive.
4. All lots shall have a Recreational Vehicle Pad.
 - a) Pads will be solid asphalt or concrete area of not less than eight (8') feet X twenty

(20') feet.

- b) No Recreational Vehicle shall be placed on a pad shorter than the Recreational Vehicle Pad.
- c) Pads will be placed on the lots so that all Recreational Vehicles shall be separated by a minimum of ten (10') feet.

1.4 Required Parking

A minimum of two (2) off-street hard surface parking spaces shall be provided for each recreational vehicle

1.5 Private Drives

Private drives shall be provided and shall extend continuously from the city street so as to provide suitable access to all of the Recreational Vehicle Lots and other facilities or uses allowed within the Recreational Vehicle Park and must be accessible at all times for emergency purposes.

1. Driveway widths within the Recreational Vehicle Park shall be a minimum of twenty (20') feet.
2. Private drive intersections shall generally be at right angles. Offset intersections of less than one hundred twenty-five (125') feet centerline to centerline should be avoided. Intersections of more than two (2) streets shall not be allowed.
3. Private drives should be designed to minimize dead ends. If dead end drives are included in the design, they shall be limited to a maximum length of thirty (30') feet and used strictly for trash dumpster or other community service,
4. All private drives shall be constructed, maintained, and be properly drained to the standards required by the Director of Public Works.
5. Driveways will be solid asphalt, chip seal or concrete with 6" base.
6. Refuse containers sufficient to contain all refuse created within the park shall be provided at a central location readily accessible. Refuse containers must be fenced and gated.
7. At least one common wastewater dump station shall be provided for vehicles with waste tanks. Both wastewater and gray water must be disposed of into the public sewer system.
8. Each Recreational Vehicle Park will be served by its own single master meter for water or sewer service to the park.

1.6 Lighting

1. The parking lots, walks, and service areas shall be kept adequately lighted at all times

so the park shall be safe for occupants and visitors, and the entrances and exits shall also be adequately lighted.

2. Private drives shall have a light at each intersection and a light every three hundred (300') feet between intersections.
3. No illuminated signs or unshaded light shall be located so as to constitute a nuisance to adjacent residential uses,

APPENDIX F

Regulations for the purpose to regulate sexually oriented businesses

1.1 Purpose and intent.

(a) It is the purpose of this Appendix to regulate sexually oriented businesses in order to promote health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulation to prevent the concentration of sexually oriented businesses within the city. The provisions of this Appendix have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Appendix to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(b) It is the intent of the city council that the locational regulations are promulgated pursuant to V.T.C.A., Local Government Code Ch. 243.

1.2 Definitions.

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

Adult arcade means any place to which the public is permitted 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 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore or adult video store means a commercial establishment that as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, cassettes or video reproductions, digital recordings slides, or other visual

representations that depict or describe specified sexual activities or specified anatomical areas; or

(2) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Adult cabaret means a nightclub, bar, restaurant, or similar commercial establishment that regularly or periodically features:

- (1) Persons who appear in a state of nudity or semi nudity, including topless dancers, nude dancers or strippers, male or female;
- (2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, video, digital recordings, slides, or other visual representations that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult motel means a hotel, motel, or similar commercial establishment that:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, film, motion pictures, video, digital recordings slides, or other visual representations that 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 type of activity;
- (2) Offers a sleeping room for rent for a period of time that is less than ten hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video, digital recordings, slides, or similar visual representations are shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or deliver performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Child care facility means a building used as a day nursery, children's boarding home, child placement agency, religious or charitable encampment for children or any other place for the care of custody of children under 16 years of age.

Church means a building in which persons regularly assembles for worship intended primarily for purposes connected with faith, or for propagating a particular form of belief.

Escort means a person who, for consideration, agrees to offers to act as companion, guide, or date for another person, or who agrees to offers to privately model lingerie or to privately perform a striptease or similar activity for another person.

Escort agency means a person who, or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its business purposes, for a fee, tip, or other consideration.

Establishment means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

Nude model studio means any place where a person who appears in a state of nudity or semi nudity or displays specified anatomical areas to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nudity and state of nudity mean:

- (1) The appearance of human bare buttock, anus, male genitals, female genitals, or female breast; or
- (2) The state of dress that fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

Operates and causes to be operated means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operating a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

Residential district means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Residential use means property used for single-family, duplex, multiple-family, manufactured home park, manufactured home subdivision, or campground purposes.

School means any public or private learning center, elementary school, secondary school, junior college, community college, college, university, or other center for post –secondary education.

Seminude means a state of dress or undress in which clothing covers no more than the genitals, pubic region, and areolae of the female breasts, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) 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 semi nudity.

Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center or similar business.

Specified anatomical areas means human genitals in a state of sexual arousal

Specified sexual activities means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1)--(3), of this section.

Substantial enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than 20 percent, as the floor areas existed on the date of the enactment of the ordinance from which this Appendix is derived.

Transfer of ownership control of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities that constitute a controlling interest in the business,

whether by sale, exchange, or similar means; or

- (3) The establishment of a trust, gift, or other similar legal device that 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.

1.3 A sexually oriented business may not be located within 1, 000 feet of:

- (1) A church;
- (2) A school;
- (3) A child care facility;
- (4) A boundary of a residential district;
- (5) A public park;
- (6) The property line of a lot devoted to residential use;
- (7) Any building or structure in which alcoholic beverages are offered for sale; or
- (8) Another sexually oriented business.

1.4 (a) For the purpose of section 1.3 of this Appendix, 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 where a sexually oriented business is conducted to the nearest property line of the premises of a church, school, child care facility or building or structure in which alcoholic beverages are offered for sale, or to the nearest boundary of an affected public park, residential district, or residential lot.

(b) For the purposes of section 1.3(8) of this Appendix, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

1.5 Any sexually oriented business lawfully operating on the effective date of this ordinance that is in violation of section 1.3 or 1.4 of this Appendix shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 12 months, unless sooner terminate for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use shall not be increased, enlarged, extended, or altered except that the use may be changed to conforming use. If two or more sexually oriented businesses are within 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 latter-established business is nonconforming.

1.6 A sexually oriented business lawfully operated as conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, or a church school, child care facility, public park, residential district, or residential lot or any building or structure in which alcoholic beverages are offered for sale, within 1,000 feet of the sexually oriented business.

APPENDIX G
Provisions for Industrialized Housing and Buildings

The following provisions shall be met by Industrialized Housing and Buildings in accordance with the Texas Occupations Code:

- (1) The municipality shall prior to the on-site construction or installation of industrialized housing and building:
 - a. Require and review for compliance with mandatory building codes, a complete set of designs, plans and specifications bearing the Texas Industrialized Building Code Council’s stamp of approval for each installation of industrialized housing or buildings in the municipality;
 - b. Require that all applicable local permits and licenses be obtained before construction begins on a building site;
 - c. Require, in accordance with the Texas Commission of Licensing and Regulation’s (the Commission) rules, that all modular components bear an approved decal or insignia indicating inspection by the Commission; and
 - d. Establish procedures for the inspection of:
 - (i) the erection and installation of industrialized housing to be located in the municipality, to ensure compliance with mandatory building codes and the Commission rules; and
 - (ii) all foundation and other on-site construction, to ensure compliance with approved designs, plans, and specifications.

The following provisions shall be met by single-family and duplex industrialized housing in accordance with the Texas Occupations Code:

- (1) Single-family or duplex industrialized housing must have all local permits and licenses that are applicable to other single-family or duplex dwellings.
- (2) Single family or duplex industrialized housing shall:

- a. Have a value equal to or greater than the median taxable value for each single-family dwelling located with 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;
 - b. Have exterior siding, roofing, roof pitch, foundation fascia and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located;
 - c. Comply with municipal aesthetic standards, building setbacks, side and rear building offsets, subdivision control, square footage, and other site requirements applicable to single-family dwellings; and
 - d. Be securely fixed to a permanent foundation.
- (3) For purposes of subsection (2) “value” means the taxable value of the industrialized housing and the lot after installation of the housing.
 - (4) For purposes of subsection (2), the applicant for the local permits are solely responsible for providing the value of dwellings located within 500 feet of the lot in question and the value of the industrialized housing.

APPENDIX H

Regulate Game Rooms

1.1 Purpose and intent.

(a) It is the purpose of this Appendix to regulate Game Rooms in order to promote health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulation to prevent the concentration of Game Rooms within the city.

(b) It is the intent of the city council that the locational regulations are promulgated pursuant to V.T.C.A., Local Government Code Ch. 211.

1.2 Definitions.

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

Amusement Redemption Machine means a machine or device of any kind or character which is operated by or with currency, coin, tokens, debit or credit cards, or other means representing the payment of monetary consideration, that provides the user with a opportunity to receive something of value other than a right to replay.

Game Room means a building, facility or part of a building or facility that is open to the public and that contains five or more operational Amusement Redemption Machines.

1.3 A Game Room may not be located within 500 feet of:

- (1) A church;

- (2) A school;
- (3) A child care facility;
- (4) A boundary of a residential district;
- (5) A public park;
- (6) The property line of a lot devoted to residential use;
- (7) Any building or structure in which alcoholic beverages are offered for sale; or
- (8) Another Game Room.

1.4 (a) For the purpose of section 1.3 of this Appendix, 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 where a Game Room is operated to the nearest property line of the premises of a church, school, child care facility or building or structure in which alcoholic beverages are offered for sale, or to the nearest boundary of an affected public park, residential district, or residential lot.

(b) For the purposes of section 1.3(8) of this Appendix, the distance between any two Game Rooms 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.

1.5 Any Game Rooms lawfully operating on the effective date of this ordinance that is in violation of section 1.3 or 1.4 of this Appendix shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 12 months, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use shall not be increased, enlarged, extended, or altered except that the use may be changed to conforming use. If two or more Game Rooms are within 500 feet of one another and otherwise in a permissible location, the Game Room which was first established and continually operating at a particular location is the conforming use and the latter-established business is nonconforming.

1.6 A Game Room lawfully operated as conforming use is not rendered a nonconforming use by the location, subsequent to the establishment and continuous operation of a Game Room at a given location, a church, school, child care facility, public park, residential district, or residential lot or any building or structure in which alcoholic beverages are offered for sale is located, within 500 feet of the Game Room.

APPENDIX I

SPECIAL REGULATIONS FOR THE SITING OF WIRELESS COMMUNICATIONS FACILITIES (WCF)

The purpose of this ordinance is to establish general guidelines for the siting of wireless communications facilities (WCF). The goals of this ordinance are to:

- (1) Accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community;

- (2) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;
- (3) Minimize averse visual effects of WCFs through careful design and siting standards;
- (4) Avoid potential damage to adjacent properties from WCF failure through structural standards and setback requirements;
- (5) Maximize the use of existing and approved WCFs and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of WCFs needed to serve the community; and
- (6) Be in accordance with all aspects of the Federal Telecommunications Act of 1996.

DEFINITIONS.

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

Administrative Review means those processes set forth in Approval Procedures

Antenna array means one or more rods, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The term "antenna array" does not include the term "support structure" defined in this section.

Attached wireless communications facility (attached WCF) means an antenna array that is attached to an existing building or structure (attachment structure), which structures shall include, but not be limited to, utility poles, signs, water towers, with any accompanying pole or device (attachment device) which attaches the antenna array to the existing building or structure and associated connection cables, and an equipment facility which may be located either inside or outside of the attachment structure.

Collocation/site sharing means use of a common WCF or common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity.

Development standards means those standards set forth herein.

Equipment facility means any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a buildout of an existing structure, pedestals, and other similar structures.

Height , when referring to a WCF, means the distance measured from ground level to the highest point on the WCF, including the antenna array.

Lattice tower means a self-supporting three- or four-sided, open steel frame structure used to support telecommunications equipment.

Minor modification means any routine repair or maintenance the value of which does not exceed fifty (50) percent of the value of the tower.

Major modification means any repair or maintenance the value of which exceeds fifty (50) percent of the value of the tower.

Monopole means a structure composed of a single spire used to support telecommunications equipment.

Residential district means any section of the city zoned for Single-family (R-1), (R-4), Single-family/Manufactured Housing designated on site plan as residential use.

Setback means the required distance from the property line of the parcel on which the WCF is located to the support structure.

Support structure means a structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device (attachment device) of a maximum of 20 feet in height which is used to attach a WCF to an existing building or structure (attachment structure) shall be excluded from the definition of and regulations applicable to support structures .

Temporary wireless communications facility (temporary WCF) means a WCF to be placed in use for 120 or fewer days.

Tower means a stand-alone structure consisting of a support structure, antenna, and associated equipment. The support structure may be a wooden pole, monopole, lattice tower, light standard, or other vertical support.

Wireless communications means any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

Wireless communications facility (WCF) means any unstaffed facility for the transmission and/or reception of wireless telecommunications services usually consisting of an antenna array, connection cables, an equipment facility, and a support structure to achieve the necessary elevation.

PURPOSE AND GOALS.

Applicability and Severability

A) **Pre-existing WCFs.** WCFs for which a permit has been issued prior to the effective date of the ordinance from which this article is derived shall not be required to meet the requirements of this

B) *Exclusion for amateur radio facilities.* This article shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

C) *Relationship to other ordinances.* This article shall supersede all conflicting requirements of other codes and ordinances regarding the locating and permitting of WCFs.

D) *If any section , subsection, sentence, clause, phrase, or portion of this ordinance,* is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of remaining portion thereof.

Development standards for WCFs.

A) *WCFs and antennas are a permitted use.* In any manufacturing or heavy manufacturing zoned district if the following requirements are satisfied:

1. The WCF is a minimum of 200 feet from any residential zoning district.
2. WCF height, excluding antenna array, does not exceed:
 - a. 100 feet, if the WCF is at least 200 up to 250 feet from any residential district.
 - b. 125 feet, if the WCF is at least 250 up to 540 feet from any residential district.
 - c. 150 feet, if the WCF is 540 feet or more from any residential district.
3. The antenna array does not exceed WCF height by more than 20 feet.
4. All guys and guy anchors are set back a minimum of 20 feet from any property line.
5. The WCF is erected and operated in compliance with current Federal Communication Commission and other applicable federal, state and county standards.
6. The WCF is of monopole construction if located within 540 feet of any residential district.

B) *Temporary WCF's, for emergency purposes,* for a term not to exceed 120 days, with a possible 60 day extension with approval of the chief building official, are permitted outright.

C) *Setbacks.*

1. WCFs shall be located so as to provide a minimum distance from the tower to all property lines equal to 20 percent of the height of the tower.
2. WCFs shall be set back a minimum of 50 feet from any existing or planned street right-of-way line.

D) *Fencing and landscaping.*

1. All WCFs and support facilities shall be surrounded by a solid concrete fence eight feet in height from finished grade. Access to the WCF shall be through a locked gate. Barbed wire may be allowed along the top of the fence if it is necessary to preclude unauthorized access to the WCF.
2. The fence shall be landscaped along the perimeter by drought tolerant plants or shrubbery or plants native to the South Texas Region.

E) Additional uses permitted on lot. WCFs may be located on lots containing another principal use, and may occupy a leased parcel on a lot meeting the minimum lot size requirement of the district in which it is located. Towers and their associated equipment shall be separated from other structures on the lot by a minimum distance of six feet.

F) Required off-street parking. One parking space is required.

G) Radio frequency emissions. The Federal Telecommunications Act of 1996 (FTA) gives the Federal Communication Commission (FCC) sole jurisdiction of the field of regulation of radio frequency (RF) emissions and WCFs which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts.

Approval procedures.

A) Permit.

1. **Application requirements.** Any person, firm, corporation, or other entity desiring to build a telecommunication facility within the corporate city limits must obtain a building permit, pay appropriate fees, and submit a signed application that includes all materials and information detailed herein.
 - a. Name of applicant.
 - b. Address of applicant.
 - c. Vicinity map to illustrate location of proposed site.
 - d. Description of support structure and antenna height.
 - e. Photos and/or drawings of all equipment, structures, and antennas.
 - f. Names and addresses of telecommunication providers or users of the proposed WCF or antenna.
 - g. Applicant's master WCF plan for the city and surrounding area, if necessary.
 - h. Detailed account of collocation efforts.
 - i. If a new WCF is allowed, the owner must certify in writing a willingness to allow collocation at the new site.
 - j. Any other information as necessary for the City Council to make a determination for permit issuance.

B) Inventory of existing sites. Each application of the one or more towers shall provide to the City an inventory of its existing towers, including specific information about the location, height, and design of each tower.

C) Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the City that no existing tower or structure can accommodate the applicants proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

1. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements
2. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements
3. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength.
4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna of the existing towers or structures would cause interference with the applicant's proposed antenna
5. The fees or cost required to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs below new tower development are presumed reasonable.
6. Property owners or owners of existing towers or structures are unwilling to accommodate the applicant's needs.
7. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

D) Site Plan. Each applicant requesting a permit under this section shall submit a scaled site plan and a sealed elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate professional engineers, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information necessary to assess compliance.

E) Residential setback. Towers must be set back a distance equal to the height of the tower from any off-site residential structure.

F) Aesthetics Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted sky blue or gray, so as to reduce visual obtrusiveness. At a tower site, the design of the buildings and related structures shall to the extend possible, use materials, colors, textures screening, and landscaping that will blend the tower facilities to the natural setting and building environment. If an antenna is install on a structure other than a tower the antenna and supporting electrical and mechanical equipment must be of a neutral color 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. Property shall be maintained to be clear of an accumulation of weed growth, rubbish, trash, debris, or manmade material that creates a fire hazard to adjacent properties or adversely affects or impairs the economic welfare of adjacent properties.

G) Federal requirements All towers must meet or exceed current standards and regulations of the FAA and FCC, and any other agency of the federal government with the authority to regulate towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulation within six months of the effective date of such standard and regulations

H) Building codes, safety standards. To ensure the structural integrity of tower, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for tower that are published by the Electronic Industries Association, as amended from time to time. If upon inspection the tower fails to comply with such codes and standards and constitute a danger to persons and property, then upon notice being provided to the owner of the tower, the owner shall have thirty days to bring such tower into compliance with such codes and standards. If the owner fails to bring such tower into compliance within the 30 days, the city may remove such tower or cause such tower to be removed at the owner's expense.

I) Administrative review

Prior to the City Council, considering action to approve any WCF Site Application within the City, the City Council shall conduct a public Hearing, notice of which shall be mailed to each property owner within two hundred (200) feet of the proposed tower site at least fourteen (14) days in advance of said hearing. Additional, notice of the Public Hearing shall be posted in keeping with the requirements of Chapter 551 of the Tx Gov Code.

Following a Public Hearing, the City Council may consider approval of the Tower Site Application. The City may impose conditions in any permit issued hereunder to ensure conformity with the purposes of this Ordinance and the City of Poth Planning & Zoning Ordinance.

J) Review Guidelines. In addition to any requirements imposed through any associated zoning or special use permits, the City Council will be guided in its considerations by the following standards:

1. Height of proposed tower or other structure does not exceed that which is essential for it is intended use and public safety.
2. Proximity of tower to residential development or zones does not create undue impact on the value or use of property (ies) in such areas
3. Nature of uses on adjacent and nearby properties and the degree of incompatibility of the proposed construction or activity with such adjacent and nearby uses.
4. Surrounding topography of the proposed site and the degree to which any specific topographical feature render the proposed site incompatible with the purposes of this Ordinance, or required special consideration(s) as to drainage, erosion and sedimentation control.
5. Surrounding tree coverage and foliage and the extent to which the proposed site or construction would disturb or diminish such coverage and foliage, or require special consideration(s) as to landscaping or buffering.

6. Design of the tower, antenna, or facility with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness including the need for landscaping or other site improvement (s).
7. The safety and utility of any proposed ingress and egress to the site.
8. Availability of suitable existing towers and other alternative tower structures or locations.
9. Visual impacts on view sheds, ridge lines, and other impacts resulting from tower location, tree and foliage clearing and placement of incidental structures, powerlines, and access roads.
10. Visual impacts on the view from any public park, natural scenic vista, historic building, or major view corridor.
11. That the proposed facility/tower/antenna/dish be constructed in a such a manner not to result in needless height, mass, and guy-wire supports with documentation having provided and review regarding the design capacity and/or the remaining co-location capacity of the tower/facility.
12. The proposed facility will minimize potential effects on wildlife.

SHARED FACILITIES AND COLLOCATION POLICY.

FCC licensed wireless communication providers are encouraged to construct and site their WCFs with a view towards sharing facilities with other utilities, to collocation with other existing WCFs and to accommodating the future collocation of other future WCFs, where technically, practically, and economically feasible. The city reserves the right to notify other registered wireless communication providers of new WCF applications to promote collocation.

REMOVAL OF ABANDONED WCFs.

Any WCF that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such WCF shall remove same within 90 days of notice to the chief building official that the WCF is abandoned. If such WCF is not removed within said 90 days, the chief building official may remove or cause to be removed such WCF at the owner's expense. If there are two or more users of a single WCF, then this provision shall not become effective unless all users cease using the WCF.

NONCONFORMING WCFs.

WCFs in existence on the date of the adoption of the ordinance from which this article is derived, which do not comply with the requirements of this article (nonconforming WCFs) are subject to the following provisions:

- A) Nonconforming WCFs may continue in use for the purpose now used, but may not be expanded without complying with this article, except as further provided in this section.
- B) Nonconforming WCFs which are hereafter damaged or destroyed no more than 50 percent or greater, due to any reason or cause, may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit therefor, but without otherwise complying with this article.
- C) The owner of any nonconforming WCF may replace, repair, rebuild and/or expand such WCF in order to improve the structural integrity of the facility, to allow the facility to accommodate collocated antennas or facilities, or to upgrade the facilities to current

engineering, technological or communications standards, without having to conform to the provisions of this article, so long as such facilities are not increased in height by more than 20 feet and/or setbacks are not decreased by more than ten percent.

MODIFICATIONS TO EXISTING FACILITIES OR PRE-EXISTING FACILITIES WHICH MEET THE REQUIREMENTS OF THIS ORDINANCE.

- A) Minor modifications to WCFs permitted shall be approved under an administrative review.
- B) Major modifications to WCFs permitted under this ordinance shall be subject to all terms of this ordinance.