

**ZONING**

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CITY OF KERENS, TEXAS

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF KERENS, TEXAS, ADOPTING A COMPREHENSIVE ZONING PLAN AND ZONING MAP AND DIVIDING THE CITY INTO SEVERAL DISTRICTS; ESTABLISHING AND PROVIDING FOR ZONING REGULATIONS AND CREATING ZONING DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; WITHIN SUCH DISTRICTS REGULATING THE USE OF LAND, BUILDINGS AND STRUCTURES; REGULATING THE HEIGHT, SIZE, AND LOCATIONS OF BUILDINGS; ESTABLISHING DENSITY, OPEN SPACE, SCREENING, AND MINIMUM OFF-STREET PARKING REQUIREMENTS; REGULATING THE ERECTION, REPAIR, AND ALTERATION OF ALL BUILDINGS AND STRUCTURES; PROVIDING FOR SPECIFIC USE PERMITS FOR CERTAIN USES; RECOGNIZING NONCONFORMING USES AND STRUCTURES AND PROVIDING RULES FOR THE REGULATION THEREOF; PROVIDING FOR CERTIFICATES OF OCCUPANCY AND COMPLIANCE; DEFINING CERTAIN TERMS; PROVIDING A METHOD OF AMENDMENT; PROVIDING A PENALTY FOR VIOLATION OF SUCH ORDINANCE AND FOR INJUNCTIVE RELIEF TO PERSONS AFFECTED BY THE VIOLATION OF SAID ORDINANCE; PROVIDING A SAVING CLAUSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERENS, TEXAS, THAT A COMPREHENSIVE ZONING ORDINANCE AND MAP ARE HEREBY PASSED AND APPROVED WHICH SHALL PROVIDE AS FOLLOWS:

**SECTION 1**            **TITLE**

This ordinance shall be known and may be cited as "The City of Kerens Zoning Ordinance".

**SECTION 2**            **PURPOSE**

Zoning Regulations and Districts are herein established in accordance with a Comprehensive Plan for the purpose of promoting the health, safety, morals and general welfare of the citizens of the City. They are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land, and to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been established with reasonable consideration for the character of each district and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

**SECTION 3**            **ZONING DISTRICTS ESTABLISHED**

3.1    Zoning Districts Identified

The City of Kerens, Texas, is hereby divided into zoning districts as listed in the section.

**ABBREVIATED  
DESIGNATION**

**ZONING DISTRICT NAME**

A	Agricultural District
SF-E	Single Family Residential District - Estate
SF-1	Single Family Residential District - 1
SF-2	Single Family Residential District - 2
TF	Two Family Residential (Duplex) District
MH-1	Manufactured Home District
MH-2	Manufactured Home Park District
MF	Multifamily District
C-1	Commercial District - Office, Light Retail, and Neighborhood Services
C-2	Commercial District - General

M-1 Manufacturing/Industrial District - Light

PD Planned Development District

FP Flood Plain District

### 3.2 Description and Purpose of Zoning Districts

A -- Agricultural District: This district provides for the continuance of farming, ranching, and gardening activities on land being utilized for these purposes. When land in an Agricultural District is needed for urban purposes, it is anticipated the zoning will be changed to the appropriate zoning district(s) to provide for orderly growth and development in accordance with the Comprehensive Plan. See Section 8 for A -- Agricultural District regulations.

SF-E -- Single Family Residential District - Estate: The SF-E district provides for residential development on large lots with a minimum building site of 43,560 square feet. Density in this district will usually be no greater than one (1) unit per acre. See Section 9 for SF-E -- Single Family Residential District - Estate regulations.

SF-1 -- Single Family Residential District - 1: The SF-1 district provides for a minimum residential building site of 9,000 square feet. Density in this district will usually be no greater than four (4) units per gross acre. See Section 10 for SF-1 -- Single Family Residential District regulations.

SF-2 -- Single Family Residential District - 2: The SF-2 district provides for a minimum residential building site of 6,000 square feet and permits residential development of densities ranging from four (4) to six (6) units per gross acre. See Section 11 for SF-2 -- Single Family Residential District regulations.

TF -- Two Family Residential (Duplex) District: The TF district provides for stable, quality residential development, including duplex, garden (patio) home, and similar residential development with densities ranging from four (4) to twelve (12) units per gross acre. See Section 12 for TF -- Two Family Residential (Duplex) District regulations.

MH-1 -- Manufactured Home District. The MH-1 district provides an area for the placement of manufactured home and modular home units in subdivisions in which most lots and housing units are owner-occupied. Densities in this district will be comparable to that of the SF-2 District. See Section 13 for MH-1 -- Manufactured Home Subdivision District regulations.

MH-2 -- Manufactured Home Park District. The MH-2 district establishes a category in which manufactured home park development with a maximum density of approximately five (5) - six (6) units per gross acre can occur. See Section 14 for MH-2 -- Manufactured Home Park District regulations.

MF -- Multifamily District. The MF district permits multifamily developments of maximum densities of fifteen (15) units per acre, except under special mitigation conditions. See Section 15 for MF -- Multiple-Family Dwelling District regulations.

C-1 -- Commercial District - Office, Light, Retail, and Neighborhood Services. Retail, commercial, and office uses developed under the standards of the C-1 District are designed to provide a compatible relationship between the C-1 development and adjacent residential areas. See Section 16 for C-1 Commercial District - Office, Light Retail, and Neighborhood Services regulations.

C-2 -- Commercial District - General: Uses which require considerable space for display, sales, or open storage, or by the nature of the use are generally not compatible with residential uses are located in the C-2 Commercial District. See Section 17 for C-2 -- General Commercial District regulations.

M-1 -- Manufacturing/Industrial District - Light: The Light Manufacturing/Industrial District is established to accommodate uses of a non-nuisance type located in relative proximity to residential and C-1 business areas. Development in the M-1 district is limited primarily to certain wholesale, jobbing and warehouse uses and certain specialized manufacturing and research uses of a type which will not create nuisances. See Section 18 for M-1 -- Manufacturing/Industrial District - Light regulations.

M-2 -- Manufacturing/Industrial District - Heavy: The Heavy Manufacturing/Industrial District is established to accommodate industrial uses not appropriate for inclusion in the M-1 district and likely to create noise, traffic, odor and/or other conditions incompatible with most residential and commercial uses. See Section 19 for M-2 -- Manufacturing/Industrial District - Heavy regulations.

PD -- Planned Development District: The Planned Development District provides a zoning category for the planning and development of larger tracts of land for tracts of land with unique characteristics for a single use or combination of uses requiring flexibility and variety in design to achieve orderly development with due respect to the protection of surrounding property. See Section 20 for PD - Planned Development District regulations.

FP -- Flood Plain District: Zoning districts located in flood hazard areas which are subject to periodic inundation shall be preceded by the prefix FP, indicating a subdistrict. Areas designated FP may be used only for those uses listed in the provisions of Section 21 until a use in any area or any portion thereof located in FP subdistrict has been approved by the City Council. Approval shall only be given after engineering studies determine that the area, or any portion thereof, is suitable for uses in the district, and building construction or development would not create an obstruction to drainage nor a hazard to life or property, and that such construction is not contrary to the public interest. See Section 21 for FP -- Flood

Plain District regulations.

#### **SECTION 4            ZONING DISTRICT MAP**

##### **4.1.    Zoning District Boundaries Delineated on Zoning District Map**

The boundaries of the zoning districts set out herein are delineated upon the Zoning District Map of the City of Kerens, Texas, said map being hereby adopted as part of this ordinance as fully as if the same were set forth herein in detail.

##### **4.2.    Regulations for Maintaining Zoning District Map**

Two (2) original, official, and identical copies of the Zoning District Map are hereby adopted bearing the signature of the Mayor and attestation of the City Secretary and shall be filed and maintained as follows:

- 4.2.1.    One copy shall be filed with the City Secretary, to be retained as the original record and shall not be changed in any manner.
- 4.2.2.    One copy shall be filed with the Building Official and shall be maintained up-to-date by posting thereon all changes and subsequent amendments for observation in issuing building permits and for enforcing the Zoning Ordinance. A written record (logbook) shall be kept by the Building Official of all changes made to the Zoning District Map.
- 4.2.3.    Reproductions of the official Zoning District Map may be made for information purposes.

#### **SECTION 5            ZONING DISTRICT BOUNDARIES**

##### **5.1.    Rules for Determining District Boundaries**

The district boundary lines shown on the zoning district map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

- 5.1.1.    Boundaries indicated as approximately following streets, highways, or alleys shall be construed to follow the centerline of such street, highway, or alley.
- 5.1.2.    Boundaries indicated as approximately following platted lot lines shall be construed as following such lines.

- 5.1.3. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- 5.1.4. Boundaries indicated as following railroad or utility lines shall be construed to be the centerline of the right-of-way; if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines.
- 5.1.5. Boundaries indicated as parallel to or extensions of features indicated in 5.1.1. through 5.1.5. above shall be construed. Distances not specifically indicated on the original Zoning Map shall be determined for the graphic scale on the map.
- 5.1.6. Boundaries indicated as parallel to or extensions of features indicated in 5.1.1. through 5.1.5. above shall be construed. Distances not specifically indicated on the original Zoning Map shall be determined from the graphic scale on the map.
- 5.1.7. Whenever a street, alley or other public way is vacated by official action of the City Council, or whenever a street or alley area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way, and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.
- 5.1.8. Where physical features of the ground are at variance with information shown on the official zoning district map, or if there arises a question as to how a parcel of property is zoned and such question cannot be resolved by the application of subsections 5.1.1. through 5.1.7., or the zoning of property is invalidated by a final judgment of a court of competent jurisdiction, the property shall be considered as classified A -- Agricultural District, temporarily. In an area determined to be temporarily classified as A -- Agricultural District, no person shall construct, add or to alter any building or structure or cause the sale to be done, nor shall any use be located therein or on the land which is not permitted in an A -- Agricultural District, unless and until such territory has been zoned to permit such use by the City Council. It shall be the duty of the City Council to determine a permanent zoning for such area as soon as practicable.

## **SECTION 6            ZONING OF ANNEXED TERRITORY**

### **6.1.    Permanent Zoning Concurrent With Zoning**

An area or areas being annexed to the City of Kerens shall ordinarily be given permanent zoning concurrently with the annexation.

6.2. Temporary Classification

In instances in which the zoning of an annexed territory concurrently with the annexation is impractical, the annexed territory shall be temporarily classified as A -- Agricultural District, until permanent zoning is established by the City Council. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure established by law for the adoption of original zoning regulations. The City Council shall determine a permanent zoning for such area as soon as practicable after annexation.

6.3. Regulations in Areas Temporarily Classified

In an area temporarily classified as A -- Agricultural District:

- 6.3.1. No person shall erect, construct, or proceed or continue with the erection or construction of any building or structure or cause the same to be done in any newly annexed territory to the City of Kerens without first applying for and obtaining a building permit or certificate of occupancy from the building official or the City Council, as may be required.
- 6.3.2. 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 a zoning district other than the Agricultural District by the City Council in the manner prescribed by law.

**SECTION 7**            **COMPLIANCE WITH ZONING REGULATIONS**

7.1 Compliance With Zoning Regulations Required

All land, buildings, structures, or appurtenances thereon located within the City of Kerens which are hereafter occupied, used, erected, altered, removed, placed, demolished, or converted shall be occupied, used, erected, altered, removed, placed, demolished, or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided.

7.2 Building Permits Prohibited Without Plat

No permit for the construction or placement of a building or buildings upon any tract or plot shall be issued unless the plot or tract is part of a plat of record, properly

approved by the Planning and Zoning Commission and City Council and filed in the Plat Records of county or counties in which the plot or tract is located.

### 7.3 Exclusions

Nothing herein contained shall require any change in the plans, construction, or designated use of a building under construction at the time of the passage of this ordinance and which entire building shall be completed within one (1) year from the date of passage of this ordinance.

### 7.4 One Main Building on a Lot or Tract

Only one main building for one family or two family use with permitted accessory buildings may be located upon a lot or tract. Every dwelling shall face or front upon a public street or approved place other than an alley, which street or approved place shall have a minimum width of twenty-five (25) feet. Where a lot is used for retail and dwelling purposes, more than one main building may be located upon the lot but only when such buildings conform to all the open space, parking, and density requirements applicable to the uses and districts. Whenever two or more main buildings, or portions thereof, are placed upon a single lot or tract and such buildings will not face upon a public street, the same may be permitted when the site plan for such development is approved by the City Council. No parking area, storage area, or required open space for one building shall be computed as being the open space, yard, or area requirements for any other dwelling or other use.

## **SECTION 8      A -- AGRICULTURAL DISTRICT**

### 8.1. General Purpose and Description

The Agricultural District is intended to apply to land situated on the fringe of an urban area, used for agricultural purposes, and which may become an urban area in the future. Therefore, the agricultural activities conducted in the Agricultural District should not be detrimental to urban land uses and intensity of use permitted in this district is intended to encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made.

### 8.2. Permitted Uses

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

- 8.2.1. Single-family dwellings on building lots of two (2) acres or more in areas where said dwellings can be adequately served by city utilities or septic tanks located on the building lot.
- 8.2.2 Telephone exchange and utility service building, provided no public business

and repair or outside storage facilities are maintained; gas lines; and gas regulating stations.

- 8.2.3. Accessory buildings and structures clearly incidental to agricultural operations, including but not limited to barns, stables, equipment sheds, granaries, private garages, pump houses, and servants quarters not for rent, provided that the total area of buildings and structures shall be limited to ten percent (10%) of the gross land area of tract.
- 8.2.4. Temporary metal buildings of less than six hundred (600) square feet which are used for tool and supply storage.
- 8.2.5. Riding academy or other equestrian related activities.
- 8.2.6. Other uses as listed in Section 22 of this ordinance.

### 8.3. Permitted Specific Uses

The following specific use shall be permitted in the Agricultural District, when granted in accordance with Section 25:

- 8.3.1. Uses as listed in Section 22 of this ordinance.

### 8.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

## **SECTION 9 SF-E -- SINGLE FAMILY RESIDENTIAL - ESTATE DISTRICT**

### 9.1. General Purpose and Description

The Single Family Residential - Estate District is designed to accommodate single family residential development on large lots. The district can be appropriately located in proximity to agricultural and standard single family residential uses. Densities in this district will not usually exceed one (1) unit per gross acre.

### 9.2. Permitted Uses

A building or premise in an SF-E District shall be used only for the following purposes:

- 9.2.1. Uses as listed in Section 22 of this ordinance.

9.3. Permitted Specific Uses

The following specific uses shall be permitted in an SF-E District, when granted in accordance with Section 25;

9.3.1. Uses as listed in Section 22 of this ordinance.

9.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

9.5. Parking Regulations

Two (2) covered spaces behind the front yard line for single family dwelling units and HUD Code manufactured homes. Other off-street parking spaces regulation are set forth in Section 26.

**SECTION 10 SF-1 -- SINGLE FAMILY RESIDENTIAL DISTRICT - 1**

10.1. General Purpose and Description

The Single Family Residential District - I is designed to accommodate the standard single family residential development. The district can be appropriately located in proximity to multifamily residential areas and certain neighborhood local retail and office uses. Densities in this district will not usually exceed four (4) units per gross acre.

10.2. Permitted Uses.

A building or premise in an SF-1 District shall be used only for the following purposes:

10.2.1. Uses as listed in Section 22 of this ordinance.

10.3. Permitted Specific Uses

The following specific uses shall be permitted in an SF-1 District, when granted in accordance with Section 25:

10.3.1. Uses as listed in Section 22 of this ordinance.

10.4. Height and Area Regulations:

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

10.5. Parking Regulations

A minimum of two (2) covered, enclosed parking spaces shall be provided per unit behind the building line. Other off-street parking space regulations are set forth in Section 26.

## **SECTION 11**      **SF-2 -- SINGLE FAMILY RESIDENTIAL DISTRICT -- 2**

### 11.1 General Purpose and Description

The Single Family Residential District - 2 is intended to provide for medium density single family residential development. This district functions as a buffer or transition between major streets, non-residential areas and lower density residential areas. Density in this district will range between four (4) and six (6) units per gross acre.

### 11.2. Permitted Uses

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

11.2.1. Uses as listed in Section 22 of this ordinance.

### 11.3. Permitted Specific Uses

The following specific uses shall be permitted in an SF-2 district, when granted in accordance with Section 25:

11.3.1. Uses as listed in Section 22 of this ordinance.

### 11.4 Height and Area Regulations:

See Appendix 1, Area, Setback, Height, And Coverage Regulations.

### 11.5. Parking Regulations

A minimum of one (1) covered, enclosed parking space shall be provided per unit behind the front yard line. Other off-street parking space regulations are set forth in Section 26.

## **SECTION 12**      **TF -- TWO FAMILY RESIDENTIAL (DUPLEX) DISTRICT**

### 12.1. General Purpose and Description

The purpose of the Two Family Residential (Duplex) District is to promote stable, quality residential development of slightly increased densities. Consistent with the city's Comprehensive Plan, this district may be used as a "buffer" district between low density and high density districts or between residential and non-residential districts.

## 12.2 Permitted Uses

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

12.2.1. Uses as listed in Section 22.

## 12.3 Permitted Specific Uses

The following specific uses shall be permitted in the TF District, when granted in accordance with Section 25:

12.3.1. Uses as listed in Section 22 of this ordinance.

## 12.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

## 12.5. Parking Regulations

Off-street parking shall be provided in accordance with the requirements for uses set forth in Section 26.

# **SECTION 13**      **MH-1 -- MANUFACTURED HOME DISTRICT**

## 13.1. General Purpose and Description

The Manufactured Home District is intended to provide for quality mobile home subdivision development containing many of the characteristics and the atmosphere of a standard single family subdivision.

## 13.2. Permitted Uses

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

13.2.1. Uses as listed in Section 22 of this ordinance.

## 13.3. Permitted Specific Uses

The following specific uses shall be permitted in the MH-1 District, when granted in accordance with Section 25:

13.3.1 Uses as listed in Section 22 of this ordinance.

## 13.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

## 13.5 Parking Requirements

Two (2) spaces shall be provided per unit located on the lot plus additional spaces for accessory uses as required in Section 26.

### 13.6 Additional Restrictions Applicable to MH-1 District

- 13.6.1. Manufactured housing design and construction will comply with construction and safety standards published by the Department of Housing and Urban Development pursuant to the requirements of the National Mobile Home and Safety Standards Act of 1974. All manufactured homes will be subject to utility inspection by the Building Official.
- 13.6.2. All manufactured homes shall be set on solid slab structure and/or 18" to 20" runners. Additional rooms and enclosed porches shall be constructed on a solid slab.
- 13.6.3. Tie-downs will be required and will be secured prior to occupancy.
- 13.6.4. Underpinning and skirting of like material and color or better is required and will be installed prior to occupancy.
- 13.6.5. Accessory buildings will be either manufactured or constructed in accordance with city codes.
- 13.6.6. All manufactured homes and modular homes shall comply with all regulations of the State of Texas and such regulations are hereby incorporated into this section.

## **SECTION 14      MH-2 -- MANUFACTURED HOME PARK DISTRICT**

### 14.1 General Purpose and Description

The Manufactured Home Park District is intended to provide for quality mobile home park development and maintenance. Manufactured home parks are defined as tracts or units of land under sole ownership where lots are rented or leased as space to be used for placement of a manufactured home.

### 14.2 Permitted Uses

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

- 14.2.1. Manufactured home park of not less than two (2) acres nor more than ten (10) acres in size.
- 14.2.2. Uses normally accessory to a manufactured home park, including office and/or maintenance buildings for management and maintenance of the park only, recreation buildings and swimming pools, private clubs, laundry facilities, storage facilities, and recreation areas for use by the resident of the park.

14.2.3. Other uses as listed in Section 22 of this ordinance.

14.3 Permitted Specific Uses

The following specific uses shall be permitted in the MH-2 District when granted in accordance with Section 25:

14.3.1. Boat and recreational vehicle and travel trailer storage yard.

14.3.2. Travel trailer and commercial overnight camping park.

14.3.3. Other uses as listed in Section 22 of this ordinance.

14.4. Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

14.5. Parking Requirements

Two (2) spaces shall be provided per unit located on the lot plus additional spaces for accessory uses as required in Section 26.

14.6. Additional Restrictions Applicable to Mobile Home Park District

14.6.1. Manufactured housing design and construction will comply with construction and safety standards published by the Department of Housing and Urban Development pursuant to the requirements of the National Mobile Home and Safety Standards Act of 1974. All manufactured homes will be subject to utility inspection by the Building Official.

14.6.2. All manufactured homes shall be set on a solid slab structure and/or 18" to 20" runners. Additional rooms and enclosed porches shall be constructed on a solid slab.

14.6.3. Tie-downs will be required and will be secured prior to occupancy.

14.6.4. Underpinning and skirting of like material and color or better will be required and will be installed prior to occupancy.

14.6.5. Accessory buildings will be either manufactured or constructed in accordance with city codes.

14.6.6. All manufactured homes and modular homes shall comply with all regulations of the State of Texas and such regulations are hereby incorporated into this section.

**SECTION 15**

**MF -- MULTIFAMILY RESIDENTIAL DISTRICT**

### 15.1 General Purpose and Description

The Multifamily Residential District is intended to provide for medium to higher density residential development. This district functions as a buffer or transition between major streets, non-residential areas, or higher density residential areas and lower density residential areas. Density in this district does not ordinarily exceed fifteen (15) units per gross acre but can reach a maximum of twenty-five (25) units per gross acre if special fire protection requirements are observed (see Section 15.8).

### 15.2 Permitted Uses

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

- 15.2.1. Three (3) or more single family attached dwelling units, provided that no more than seven (7) dwelling units are attached in one continuous row or group.
- 15.2.2. Other uses as listed in Section 22 of this ordinance.

### 15.3 Permitted Specific Uses

The following specific uses shall be permitted when granted in accordance with Section 25:

- 15.3.1. Uses as listed in Section 22 of this ordinance.

### 15.4 Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

When buildings exceed one (1) story in height, such buildings shall be constructed in accordance with existing building and fire codes.

### 15.5 Parking Regulations

Two and one-half (2.5) off-street parking spaces shall be provided per unit. Required parking may not be provided within the required front yard. Other off-street parking spaces regulations are set forth in Section 26.

### 15.6 Refuse Facilities

Every dwelling unit in a multifamily complex shall be located within two hundred fifty (250) feet of a refuse facility, measured along the designated pedestrian and vehicular travel way. There shall be available at all times at least eight (8) cubic yards of refuse container per thirty (30) multifamily dwelling units. For complexes with less than thirty (30) units, no less than six (6) cubic yards of refuse container shall be provided. Each refuse facility shall be screened for view on three (3) sides

from persons standing at ground level on the site or immediately adjoining property, by an opaque fence or wall of wood or masonry not less than six (6) feet nor more than eight (8) feet in height or by an enclosure within a building. Refuse containers shall be provided and maintained in a manner to satisfy city public health and sanitary regulations. Each refuse facility shall be located so as to provide safe and convenient pickup by refuse collection agencies.

#### 15.7 Screening Fence

Border fencing of masonry of not less than six (6) feet in height shall be installed by the builder at the time of construction of any multifamily complex, along the property line on any perimeter not abutting a public street or right-of-way. This fence shall be maintained throughout the existence of the multifamily complex by the owner of the complex.

#### 15.8 Special Fire Protection Requirements

Whenever densities of greater than fifteen (15) units per acre are present, each building in the development shall at the time of the construction, and thereafter be operated in accordance with currently applicable building and fire safety codes.

### **SECTION 16 C-1 -- COMMERCIAL DISTRICT - OFFICE, LIGHT RETAIL, AND NEIGHBORHOOD SERVICES**

#### 16.1 General Purpose and Description

The Commercial District - 1 is intended for office facilities, neighborhood shopping facilities, and retail and commercial facilities of a service character. The C-1 District is established to accommodate the daily and frequent needs of the community. The following regulations shall be applicable to all uses in the district:

- 16.1.1. The business shall be conducted wholly within an enclosed building;
- 16.1.2. Required yards shall not be used for overnight display, sale, or storage of merchandise or for the storage of vehicles, equipment, containers, or waste material unless fenced with non-transparent screening not less than six (6) feet nor more than eight (8) feet in height.
- 16.1.3. All merchandise shall be sold at retail on the premises; and
- 16.1.4. Such use shall not be objectionable because of odor, excessive light, smoke, dust, noise, vibration, or similar nuisance.

#### 16.2 Permitted Uses

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

- 16.2.1. Discount, variety, or department store of not greater than twenty thousand (20,000) square feet floor space.
- 16.2.2. Food store with floor space not greater than twenty thousand (20,000) square feet.
- 16.2.3. Gasoline service station (no garage or automobile repair facilities).
- 16.2.4. Other uses as listed in Section 22 of this ordinance.

### 16.3 Permitted Specific Uses

The following specific uses shall be permitted in the C-1 District, when granted in accordance with Section 25:

- 16.3.1. Broadcasting facilities, radios, television, or microwave tower.
- 16.3.2. Gasoline service station with associated minor automobile repair facility with floor space not greater than two thousand five hundred (2,500) square feet.
- 16.3.3. Other uses as listed in Section 22 of this ordinance.

### 16.4 Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

### 16.5 Parking Regulations

Off-street parking and loading shall be provided as set forth in Section 26.

## **SECTION 17 C-2 -- GENERAL COMMERCIAL DISTRICT**

### 17.1 General Purpose and Description

The General Commercial District is intended to provide a zoning category similar to the C-1 District, except that additional uses are permitted which are not generally carried on completely within a building or structure and an expanded range of service and repair uses is permitted.

### 17.2 Permitted Uses

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

- 17.2.1. Uses as listed in Section 22 of this ordinance.

### 17.3 Permitted Specific Uses

The following specific uses shall be permitted in a C-2 District, when granted in accordance with Section 25:

17.3.1. Other uses as listed in Section 22 of this ordinance.

17.4 Height and Area Regulation

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

17.5. Parking Requirements

Off-street parking requirements shall be provided in accordance with Section 26.

**SECTION 18 M-1 -- MANUFACTURING/INDUSTRIAL DISTRICT -- LIGHT**

18.1 General Purpose and Description

The Light Manufacturing/Industrial District is established to accommodate those uses which are a non-nuisance type located in relative proximity to residential areas, and to preserve and protect land designated on the Comprehensive Plan for industrial development and use from the intrusion of certain incompatible uses which might impede the development and use of lands for industrial purposes. Development in the M-1 District is limited primarily to certain storage, wholesale, and industrial uses, such as the fabrication of materials, and specialized manufacturing and research institutions, all of a non-nuisance type. No use or types of uses specifically limited to the M-2 District may be permitted in the M-1 District.

Uses permitted in the M-1 District are subject to the following conditions:

- 18.1.1. All business, servicing, or processing, except for off-street loading, display or merchandise for sale to the public, and establishments of the "drive-in" type, shall be conducted within completely enclosed areas.
- 18.1.2. All storage within one hundred (100) feet of a residential district, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively screened with non-transparent screening not less than six (6) feet nor more than eight (8) feet in height, provided no storage located within fifty (50) feet of such screening shall exceed the maximum height of screening.
- 18.1.3. Permitted uses in the M-1 District shall not disseminate dust, fumes, gas, noxious odor, smoke, glare, or other atmospheric influence.
- 18.1.4. Permitted uses in the M-1 District shall not create fire hazards on surrounding property.

18.2 Permitted Uses

The following specific uses shall be permitted in the M-1 District when granted in accordance with Section 25:

18.2.1. Uses as listed in Section 22 of this ordinance.

### 18.3 Permitted Specific Uses

The following specific uses shall be permitted in the M-1 District when granted in accordance with Section 25:

18.3.1. Machine shops and fabrication of metal not more than ten (10) gauge in thickness.

18.3.2. Accessory uses, including but not limited to temporary buildings for construction purpose for a period not to exceed the duration of such construction.

18.3.3. Factory outlet retail or wholesale store for the sales and servicing of goods or materials on the same premises as the manufacturing company to which they are related, including sales and service in a separate building or buildings.

18.3.4. Railroad freight terminals, railroad switching and classification yards, repair shops, and roundhouses.

18.3.5. Other uses as listed in Section 22 of this ordinance.

### 18.4 Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

### 18.5 Parking Regulations

Off-street parking requirements shall be provided in accordance with the specific uses set forth in Section 26.

## **SECTION 19 M-2 -- MANUFACTURING/INDUSTRIAL DISTRICT -- HEAVY**

### 19.1 General Purpose and Description

The Heavy Manufacturing/Industrial District is established to accommodate most industrial uses and protect such areas from the intrusion of certain incompatible uses which might impede the development and use of lands for industrial purposes.

Uses permitted in the M-2 District are subject to the following conditions:

19.1.1. All business, servicing, or processing, except for off-street parking, off-street loading, display of merchandise for sale to the public, and

establishments of the "drive-in" type, shall be conducted within completely enclosed buildings unless otherwise indicated.

- 19.1.2. All storage within one hundred (100) feet of a residential district, except for motor vehicles in operable condition, shall be within completely enclosed buildings or effectively, screened with screening not less than six (6) feet nor more than eight (8) feet in height, provided no storage located within fifty (50) feet of such screening shall exceed the maximum height of such screening.
- 19.1.3. All uses permitted in the M-2 district must meet the following performance standards and any appropriate city ordinances:
  - 19.1.3.a. Smoke: No operation shall be conducted unless it conforms to the standards established by the most recent version of any applicable state and federal health rules and regulations pertaining to emission of particulate matter;
  - 19.1.3.b. Particulate Matter: No operation shall be conducted unless it conforms to the standards established by the most recent version of any applicable state and federal health rules and regulations pertaining to emission of particulate matter;
  - 19.1.3.c. Dust, Odor, Gas, Fumes, Glare, or Vibration: No emission of these matters shall result in a concentration at or beyond the property line which is detrimental to the public health, safety or general welfare or which causes injury or damage to property; said emissions shall in all cases conform to the standards established by the most recent version of any applicable state and federal health rules and regulations pertaining to said emissions;
  - 19.1.3.d. Radiation Hazards and Electrical Disturbances: No operation shall be conducted unless it conforms to the standards established by the most recent version of any applicable state and federal health rules and regulations pertaining to radiation control;
  - 19.1.3.e. Noise. No operation shall be conducted in a manner so that any noise produced is objectionable due to intermittence, beat frequency, or shrillness. Sound levels of noise at the property line shall not exceed 75 db(A) permitted for a maximum of fifteen (15) minutes in any one (1) hour; said operation shall in all cases conform to the standards established by the most recent version of any applicable state and federal health rules and regulations and to other city ordinances pertaining to noise; and
  - 19.1.3.f. Water Pollution: No water pollution shall be emitted by manufacturing or other processing. In a case in which potential hazards exist, it shall be necessary to install safeguards acceptable to the appropriate State and national health and environmental protection agencies prior to issuance

of a certificate of occupancy. The applicant shall have the burden of establishing that said safeguards are acceptable to said agency or agencies.

## 19.2 Permitting Uses

The following uses shall be permitted:

- 19.2.1. Uses as listed in Section 22 of this ordinance.

## 19.3 Permitted Specific Uses

The following specific uses shall be permitted in the M-2 District when granted in accordance with Section 25:

- 19.3.1. Uses as listed in Section 22 of this ordinance.

Other manufacturing and industrial uses which do not meet the general definition for manufacturing processes may be permitted by the City Council after public hearing and review of the particular operational characteristics of each such use, and other pertinent data affecting the community's general welfare. Approval of uses under this section shall be made in accordance with Section 33.2.2.6

## 19.4 Height and Area Regulations

See Appendix 1, Area, Setback, Height, and Coverage Regulations.

## 19.5 Parking Regulations

Required off-street parking shall be provided in accordance with the specific uses set forth in Section 26.

## **SECTION 20 PD -- PLANNED DEVELOPMENT DISTRICT**

### 20.1 General Purpose and Description

The Planned Development District "PD" prefix is intended to provide for combining and mixing of uses allowed in various districts with appropriate regulations and to permit flexibility in the use and design of land and buildings in situations where modification of specific provisions of this ordinance is not contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the community. A PD District may be used to permit new and innovative concepts in land utilization. While great flexibility is given to provide special restrictions which will allow development not otherwise permitted, procedures are established herein to insure against misuse of the increased

flexibility.

## 20.2. Permitted Uses

Any use specified in the ordinance granting a Planned Development District shall be permitted in that district. The size, location, appearance, and method of operation may be specified to the extent necessary to insure compliance with the purpose of this ordinance.

## 20.3 Development Standards

- 20.3.1. Development standards for each separate PD District shall be set forth in the ordinance granting the PD District and may include but shall not be limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, management associations, and other requirements as the City Council may deem appropriate.
- 20.3.2. In the PD District, the particular district(s) to which uses specified in the PD are most similar shall be stated in the granting ordinance. All PD applications shall list all requested variances from the standard requirements set forth throughout this ordinance (applications without this list will be considered incomplete).
- 20.3.3. The ordinance granting a PD District shall include a statement as to the purpose and intent of the PD granted therein. A specific list is required of variances in each district or districts and a general statement citing the reason for the PD request.
- 20.3.4. The Planned Development District shall conform to all other sections of the ordinance unless specifically exempted in the granting ordinance.

## 20.4 Conceptual and Development Plan

In establishing a Planned Development District, the City Council shall approve and file as part of the amending ordinance appropriate plans and standard for each Planned Development District. During the review and public hearing process, the City Council shall require a conceptual plan and a development plan (or detail site plan).

### 20.4.1 Conceptual Plan

This plan shall be submitted by the applicant. The plan shall show the applicant's intent for the use of the land within the proposed Planned Development District in a graphic manner and shall be supported by written documentation of proposals and standards for development.

20.4.1.1 A conceptual plan for residential land use shall show general use, thoroughfares, and preliminary lot arrangements. For residential development which does not propose platted lots, the conceptual plan shall set forth the size, type, and location of buildings and building sites, access, density, building height, fire lanes, screening, parking areas, landscaped areas, and other pertinent development data.

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

20.4.1.3 Changes of detail which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, building height, or coverage of the site and which do not decrease the off-street parking ratio, reduce the yards provided at the boundary of the site, or significantly alter the landscape plans as indicated on the approved conceptual plan may be authorized by the building official or his designated representative. If an agreement cannot be reached regarding whether or not a detail site plan conforms to the original concept plan, the City Council shall determine the conformity.

#### 20.4.2 Development Plan or Detailed Site Plan

This plan shall set forth the final plans for development of the Planned Development District and shall conform to the data presented and approved on the conceptual plan. Approval of the development plan shall be the basis for issuance of a building permit. The development plan may be submitted for the total area of the PD or for any section by the City Council. A public hearing on approval of the development plan shall be required at the Council level, unless such a hearing is waived pursuant to Section 20.4.3.1. at the time of conceptual plan approval in the original amending ordinance. The development plan shall include:

20.4.2.1 A site inventory analysis including a scale drawing existing vegetation, natural water courses, creeks or bodies of water, and an analysis of planned changes in such natural features as a result of the development. This should include a delineation of any flood prone areas.

20.4.2.2 A scale drawing showing any proposed public or private streets

and alleys; building sites or lots; and areas reserved as parks, parkways, playgrounds, utility easements, school sites, street widening and street changes; the points of ingress and egress from existing streets; general location and description of existing and proposed utility services, including size of water and sewer mains; the location and width for all curb cuts and the land area of all abutting sites and the zoning classification thereof on an accurate survey of the tract with the topographical contour interval of not more than five (5) feet.

- 20.4.2.3 A site plan for proposed building complexes showing the location of separate buildings, and between buildings and property lines, street lines, and alley lines. Also to be included on the site plan is a plan showing the arrangement and provision of off-street parking.
- 20.4.2.4 A landscape plan showing screening walls, ornamental planting, wooded areas, and trees to be planted.
- 20.4.2.5 An architectural plan showing elevations and signage style to be used throughout the development in all districts except single family and two family may be required by the City Council if deemed appropriate. Any or all of the required information may be incorporated on a single drawing if such drawing is clear and can be evaluated by the building official or his designated representative.

#### 20.4.3. Procedure for Establishment

The procedure for establishing a Planned Development District shall follow the procedure for zoning amendments as set forth in Section 36. This procedure is expanded as follows for approval of conceptual and development plans.

- 20.4.3.1 Separate public hearings shall be held by City Council for the approval of the conceptual plan and the development plan or any section of the development plan, unless such requirements is waived by the City Council upon a determination that a single public hearing is adequate. A single public hearing is adequate when:
  - (a) The applicant submits adequate data with the request for the Planned Development District to fulfill the requirements for both plans; or
  - (b) Information on the concept plan is sufficient to determine the appropriate use of the land and the detail

site plan will not deviate substantially from it; and

- (c) The requirement is waived at the time the amending ordinance is approved. If the requirement is waived, the conditions shall be specifically stated in the amending ordinance.

20.4.3.2 The ordinance establishing the Planned Development District shall not be approved until the conceptual plan is approved.

20.4.3.3 The development plan may be approved in sections. When the plan is approved in sections, the separate approvals by the City Council for the initial and subsequent sections will be required.

20.4.3.4 An initial development plan shall be submitted for approval within six (6) months from the approval of the conceptual plan or some portion of the conceptual plan. If the development plan is not submitted within six (6) months, the conceptual plan is subject to reapproval by the City Council. If the entire project is not completed within two (2) years, the City Council may review the original conceptual plan to ensure its continued validity.

20.4.3.5 Regardless of whether the public hearing is waived for the development plan, approval by the City Council is still required.

## 20.5 Written Report May Be Required

When a PD is being considered, a written report may be requested of the applicant discussing the impact on planning, engineering, water utilities, electric, sanitation, building inspection, tax, police, fire, and traffic. Written comments from the applicable public school district and from private utilities may be submitted to the City Council.

## 20.6 Planned Developments To Be Recorded

All Planned Development Districts approved in accordance with the provisions of this ordinance in its original form, or by subsequent amendment thereto, shall be referenced on the Zoning District Map, and a list of such Planned Development Districts, together with the category of uses permitted therein, shall be maintained in an appendix of this ordinance.

# **SECTION 21      FP -- FLOOD PLAIN DISTRICT**

## 21.1 General Purpose and Description

The Flood Plain District is designed to provide for the appropriate use of land which has a history of inundation or is determined to be subject to flood hazard, and to promote the general welfare and provide protection from flooding portions of certain districts. Such areas are designated with a Flood Plain Prefix, FP.

## 21.2 Permitted Uses

The permitted uses in that portion of any district having a Flood Plain (FP) prefix shall be limited to the following:

- 21.2.1 Agricultural activities including the ordinary cultivation or grazing of land and legal types of animal husbandry but excluding construction of barns or other outbuildings.
- 21.2.2 Off-street parking incidental to any adjacent main use permitted in the district.
- 21.2.3 Electrical substation.
- 21.2.4 All types of local utilities including those requiring specific use permits.
- 21.2.5 Parks, playgrounds, public golf courses (no structures), and other recreational areas.
- 21.2.6 Private open space as part of a Planned Residential Development.
- 21.2.7 Structures, installations, and facilities installed, operated, and maintained by public agencies for flood control purposes.
- 21.2.8 Bridle trail, bicycle, or nature trail.

## 21.3 City Council Approval Required

No structure shall be erected in that portion of any district designated with a Flood Plain, FP, prefix until and unless such structure has been approved by the City Council after engineering studies have been made and it is ascertained that such building or structure is not subject to damage by flooding and would not constitute an encroachment, hazard, or obstacle to the movement of flood waters and that such construction would not endanger the value and safety of other property or public health and welfare.

**SECTION 22**      **USE OF LAND AND BUILDINGS**

No land shall hereafter be used and no building or structure shall hereafter be occupied, used, erected, altered, removed, placed, demolished or converted which is arranged or designed to be used for other than those uses specified for the district in which it is located as set forth by the following Schedule of Uses listed in the following tables.

**LEGEND FOR INTERPRETING SCHEDULE OF USES**

X	Designates use <i>permitted</i> in district indicated.
	Designates use <i>prohibited</i> in district indicated.
S	Designates use which may be approved as <i>Specific Use Permit</i>

The numbers in the "note" column refer to description/definitions listed in Section 23 Descriptions/Definitions of Uses. Additional regulations relating to use of land and buildings in individual zoning districts are listed in Sections 8 through 21 and Section 27 of this ordinance.

## SECTION 23      DESCRIPTIONS/DEFINITIONS OF USES

### 23.1 Residential Users

- 23.1.1 Boarding or Rooming House: A building, other than hotel or multiple family dwelling, where lodging is provided to persons for compensation, and where facilities for food preparation are not provided in individual rooms. Facilities usually referred to as "bed and breakfast" arrangements are included in this definition.
- 23.1.2 Dormitory: A building in which housing is provided for individual students under the general supervision or regulation of an accredited college or university and as distinguished from an apartment, hotel, motel, or rooming house. A dormitory may provide apartment units for guests, faculty, or supervisory personnel on a ratio not to exceed one (1) such apartment unit for each fifty (50) students for which the building is designed. Individual rooms or suites of rooms may have cooking facilities. The dormitory may include facilities such as a commissary and/or snack bar, lounge, and study area, dining halls, and accessory kitchen, recreation facilities, and laundry, provided that these facilities are for the benefit and use of the occupants and their guests and not open to the general public.
- 23.1.3 Duplex. See Two Family Dwelling, Sec. 23.1.20.
- 23.1.4 Garden (Patio) Home: A free-standing, detached structure used for residential purposes, built in accordance with standards set out in Section 24.5.
- 23.1.5 Guest House: Living quarters within a detached accessory building located on the same premises with the main building, for use by temporary guests of the occupants of the premises, such quarters having kitchen facilities and not rented or otherwise used as a separate dwelling.
- 23.1.6 Manufactured Housing, HUD Code: A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. All references in this ordinance to manufactured housing or manufactured home(s) shall be references to HUD Code Manufactured Housing, unless otherwise specified.

- 23.1.7 Manufactured Home Park: Any tract of land under single ownership of not less than one-half(1/2) acres and not more than ten (10) acres approved for occupancy by manufactured housing and accessory structures related thereto and designed and operated in accordance with standards herein set forth or as set forth in any other ordinance of the City of Kerens relating to the location, use, construction, operation, or maintenance of manufactured housing.
- 23.1.8 Manufactured Home Subdivision: A tract of land of not less than two (2) acres which has been final platted of record in its entirety in accordance with the subdivision regulations of the City for occupancy primarily by HUD-Code manufactured housing and industrialized housing.
- 23.1.9 Mobile Home: A structure constructed before June 15 1976, transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.
- 23.1.10 Motel, Motor Hotel, or Motor Lodge: A building or group of buildings designed for and occupied as a temporary dwelling place, providing four (4) or more room units for compensation. Units provided for the customers and where the operation is supervised by a person or persons in charge at all hours. A motel, motor hotel, or motor lodge may include restaurants, club rooms, banquet halls, ballrooms and meeting rooms as accessory uses.
- 23.1.11 Multiple Family Residence. Any building or portion thereof which is designed, built, rented, leased, or let to be occupied as three (3) or more dwelling units or apartments or which is occupied as a home or place of residence by three (3) or more families living in independent dwelling units.
- 23.1.12 Residence Hotel. A multi-dwelling unit extended stay lodging facility consisting of efficiency units or suites with a complete kitchen suitable for long term occupancy. Customary hotel services such as linen, maid service, telephone, and upkeep of furniture shall be provided. Meeting room, club house and recreational facilities intended for the use of residents and their guests are permitted. This definition shall not include other dwelling units as defined in this ordinance.
- 23.1.13 Retirement Housing: A development providing dwelling units specifically designed for the needs of ambulatory or retired persons. The following subsidiary uses shall be permitted to provide on-site goods and services for residents and their guests, but are not intended for use by the general public:

- a) cafeteria and/or dining room
- b) library
- c) game room
- d) swimming pool and/or Jacuzzi
- e) exercise room
- f) arts and crafts facilities
- g) greenhouse
- h) housekeeping service
- i) transportation service
- j) snack bar with a maximum of 350 square feet per 100 dwelling units
- k) beauty/barber shop with a maximum of 250 square feet per 100 dwelling units or a maximum of 450 square feet per 100 dwelling units
- l) convenience retail shop with maximum of 350 square feet per 100 dwelling units to provide for sale of food items, non-prescription drugs, small household items, and gifts.

23.1.14 Servant's, Caretaker's, or Guards' Residence: An accessory building or portion of an accessory building located on the same lot or grounds with the main building, containing not more than one kitchen and at least one bathroom facility and used as living quarters for a person or person employed on the premises for not less than fifty percent (50%) of his/her actual working time, and not otherwise used or designed as a separate place of abode, provided the living area of such quarters shall not exceed six hundred (600) square feet.

23.1.15 Single Family Dwelling Attached: A dwelling that is part of a structure containing three (3) or more dwellings, each designed and constructed for occupancy by one family, with each dwelling unit attached by a common wall to another with a minimum length of attachment of twenty (20) feet, in which each dwelling is located on a separate platted lot.

23.1.16 Single Family Dwelling, Detached: A detached building designed exclusively for occupancy by one (1) family, excluding manufactured housing and modular homes.

23.1.17 Townhouse or Row Dwelling: One of a series of not less than three (3) nor more than ten (10) attached one (1) family dwellings under common roof with common exterior wall, and separated from one another by single partition walls without openings from basement to roof. No townhouse dwelling unit is to be constructed above another townhouse dwelling unit.

23.1.18 Reserved for future use.

23.1.19 Travel Trailer Park: Any tract of land under single ownership, two (2) acres or more, where accommodations are provided for travel trailer use.

23.1.20 Two Family Dwelling: A building designed for occupancy by two (2) individuals or families living independently of each other within separate units which have a common wall and are under one (1) roof.

23.1.21 Zero Lot Line House: A residence allowed to have little or no side yard on one side, where the wall on that side has no doors, windows, or other openings and which otherwise qualifies for a one-hour fire rating as defined in the building code.

## 23.2 Educational, Institutional, and Special Uses

23.2.1 Child Care Center: An establishment where four (4) or more children are provided care, training, education, custody, treatment, or supervision for less than 24 hours a day. The term "day care center" shall not include overnight lodging, medical treatment, counseling, or rehabilitative services and does not apply to any school (Also see Registered Family Home).

23.2.2 Church, Rectory, or Place of Worship: A building for regular assembly for religious worship which is used primarily for such purpose and customary accessory activities including a place of residence for ministers, priests, rabbis, teachers, or directors on the premises.

23.2.3 Civic Center: A building or complex of buildings that houses municipal offices and services and which may include cultural, convention and/or entertainment facilities owned and/or operated by a governmental agency.

23.2.4 College or University. An institution established for educational purposes offering courses of study beyond the secondary education level, but excluding trade and commercial schools.

23.2.5 Community Center, Public: A building or buildings dedicated to social and/or recreational activities, serving the city or a neighborhood and owned and operated by the city or by a non-profit organization dedicated to promoting the health, safety, morals, or general welfare of the city.

23.2.6 Community Center, Private: A building or buildings dedicated to social and/or recreational activities serving residents of a subdivision or development which is operated by an association or incorporated group for their use and benefit.

23.2.7 Continuing Care Facility: A place as defined in the Texas Continuing Care Facility Disclosure and Rehabilitation Act in which a person provides board and lodging, together with personal care services and nursing services, medical services, or other health-related services, regardless of whether the services and lodging are provided at the same location, under an agreement that requires the payment of a fee and that is effective for the life of the individual or for a period of more than one (1) year, such individual or individuals being cared for not being related by consanguinity

or affinity to the person providing the care. (Also see Household Care Facility and Household Care Institution, and Personal Care Home).

- 23.2.8 Country Club (Private): Land and buildings customarily containing a golf course and a clubhouse and available only to specific private membership; such a club may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts, and similar recreational or service facilities.
- 23.2.9 Reserved for future use.
- 23.2.10 Exhibition Area: An area or space either outside or within a building for the display of topic-specific goods or information.
- 23.2.11. Fairgrounds: An area where outdoor fairs, circuses or exhibitions are held.
- 23.2.12. Family Home: A community-based residential home operated by either the State of Texas, a non-profit corporation, a community center organized pursuant to State statute, or an entity which is certified by the State as a provider for a program for the mentally retarded. Family homes provide care for persons who have mental and/or physical impairments that substantially limit one or more major life activities. To qualify as a family home, a home must meet the following requirements:
- a. Not more than six (6) disabled persons and two (2) supervisory personnel may reside in a family home at the same time.
  - b. The home must provide food and shelter, personal guidance, care, rehabilitation services, or supervision.
  - c. All applicable licensing requirements must be met.
- 23.2.13 Farm, Ranch, or Orchard: An area of five (5) acres or more which is used for growing of usual farms products and/or raising of usual farm products and animals and including the necessary accessory uses for raising, treating, and storing products raised on the premises, but not including the commercial feeding of offal or garbage to swine or other animals and not including any type of agriculture or husbandry specifically prohibited by ordinance of law. Farm, ranch, or orchard use shall not cause a hazard to health by reason of unsanitary conditions and shall not be offensive by reason of odors, dust, fumes, noise, or vibrations or be otherwise detrimental to the public welfare.
- 23.2.14 Fraternal Organization, Lodge, or Civic Club: An organized group having a restricted membership and specific purpose related to the welfare of the members.

- 23.2.15 Golf Course: An area of twenty (20) acres or more improved with trees, greens, fairways, hazards and which may include clubhouses.
- 23.2.16 Greenhouse or Plant Nursery, Commercial: A place, often including artificially heated and/or cooled buildings, where trees or plants are raised and/or sold including relate storage of equipment for landscape contracting.
- 23.2.17 Greenhouse, Non-Commercial: A building, often artificially heated and/or cooled, used as a location for cultivating plants which are used by the grower and not sold as a commercial activity.
- 23.2.18 Hospital (Chronic and Acute Care); Long Term Health Care Facility: An institution providing both in-patient health, personal care, or rehabilitative services over a long period of time to persons chronically ill, aged, or disabled due to injury and disease or to injured patients who need medical or surgical treatment intended to restore them to health and an active life and which is licensed by the State of Texas.
- 23.2.19 Household Care Facility: A dwelling unit which provides residence and care to not more than nine (9) persons, regardless of legal relationship, who are elderly; disabled; orphaned, abandoned, abused, or neglected children; victims of domestic violence; or rendered temporarily homeless due to fire, natural disaster, or financial adversity; living together with no more than two supervisory personnel as a single housekeeping unit. (See also Household Care Facility, Personal Care Home and Continuing Care Facility.
- 23.2.20  kennel: Any lot or premises on which four (4) or more dogs, cats or other domestic animals more than four (4) months of age are housed or accepted for boarding, breeding, training, selling, grooming and/or bathing for which remuneration is received.
- 23.2.21 Library: Any institution for the loan or display of books, tapes, objects of art or science which is sponsored by a public or responsible quasi-public agency and which institution is open and available to the general public.
- 23.2.22 Museum or Art Gallery: An institution for the collection, display and distribution of objects of art or science and which is sponsored by a public or quasi-public agency and which facility is open to the general public.
- 23.2.23 Nursery School; Kindergarten: A child care facility offering a program four (4) hours or less per day for children who have passed their second birthday but who are under seven years old.
- 23.2.24 Nursing Home: See Rest Home or Nursing Home.

- 23.2.25 Park, Playground, or Recreation Center (Public): An open recreation facility or park owned and operated by a public agency and available to the general public.
- 23.2.26 Park, Playground, or Recreation Center (Private): A privately owned park, playground, open space or building dedicated to recreational activities, maintained by a community club, property owner's association, or similar organization.
- 23.2.27 Personal Care Home (Custodial Care): An owner-occupied, home-operated non-licensed facility for the elderly providing custodial care to not more than three (3) individuals not related to the provider of such care. Custodial care is that of care which assists elderly persons who are incapable because of physical or mental limitations of performing routine daily activities and which do not require the continuing attention of trained medical or paramedical personnel. (Also see Continuing Care Facility).
- 23.2.28 Reserved for future use.
- 23.2.29 Race Track: A facility used for the racing of motor-driven vehicles and/or animals.
- 23.2.30 Registered Family Home: A child care facility that regularly provides care in the caretaker's own residence for not more than six (6) children under 14 years of age, excluding the caretaker's own children, and that provides care after school hours for not more than six (6) additional elementary school siblings of the other children given care, but the total number of children, including the caretaker's own, does not exceed twelve (12) at any given time. (Also see Child Care Center).
- 23.2.31 Rehabilitation Care Facility: A dwelling unit which provides residence and care to not more than four (4) persons, regardless of legal relationship, who have demonstrated a tendency towards alcoholism, drug abuse, mental illness or antisocial or criminal conduct living together with not more than two supervisory personnel as a single housekeeping unit.
- 23.2.32 Rehabilitation Care Institution: A facility which provides residence and care to five (5) or more persons, regardless of legal relationship, who have demonstrated a tendency towards alcoholism, drug abuse, mental illness or antisocial or criminal conduct together with supervisory personnel.
- 23.2.33 Rest Home or Nursing Home: A place of residence or care for persons suffering from infirmities of age or illness where care is provided on a prolonged or permanent basis. This term shall include a convalescent home.
- 23.2.34 School, Private (Primary or Secondary): An institution of learning having a

curriculum equivalent to public schools but not including specialty schools such as dancing, music, beauty, mechanical, trade, or commercial schools.

23.2.35 School, Public (Primary or Secondary): An institution under the sponsorship of a public agency which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of Texas but not including specialty schools such as dancing, music, beauty, mechanical, trade, or commercial schools.

23.2.36 School, Trade or Commercial: Establishments, other than public or parochial schools, private primary and secondary schools or colleges, offering training or instruction on a trade, art, or occupation.

23.2.37a Stable, Commercial: A structure housing horses which are boarded or rented to the public or any stable other than a private stable, but not including a sale barn, auction or similar trading activity.

23.2.37b Stable, Private: An accessory building set back from adjacent property lines a minimum distance of one hundred (100) feet and used for quartering horses, not to exceed one (1) horse per one acre area of a farm or lot.

23.2.38 Stadium or Play field, Public: An athletic field or stadium owned and operated by a public agency for the general public including a baseball field, golf course, football field or stadium which may be lighted for nighttime play.

23.2.39 Swimming Pool, Commercial: A swimming pool with accessory facilities, part of the facilities are available to the general public for a fee.

### 23.3 Transportation, Utility and Communications Uses

23.3.1 Airport, Landing Field: A place where an aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers and/or freight.

23.3.2 Electrical Substation: A subsidiary station in which electric current is transformed.

23.3.3 Gas Metering Station: Facility at which natural gas flows are regulated and recorded.

23.3.4 Heliport or Helistop: A landing facility for rotary wing aircraft which may include fueling or servicing facilities for such craft.

- 23.3.5 Radio, Television, or Microwave Communications Operators, Amateur: The transmission, retransmission, or reception of radio, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business and/or financial gain.
- 23.3.6 Radio, Television, or Microwave Communications Operations, Commercial: The transmission, retransmission, or reception of radio, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or financial gain.
- 23.3.7 Railroad Station: Any premises for the transient parking of trains and the loading and unloading of passengers.
- 23.3.8 Railroad Team Track and Right-Of-Way: A facility/place for the loading and unloading of materials on trains.
- 23.3.9 Railroad Track and Right-Of-Way: Includes track and undeveloped right-of-loading way, but does not include railroad stations, sidings, team tracks, facilities, dock yards, or maintenance areas.
- 23.3.10 Service Yard of Governmental Agency: An area for the servicing and storage of vehicles or other property of a governmental agency.
- 23.3.11 Shops, Office, and/or Storage Area of Public or Private Utility: The pole yard, maintenance yard, and/or administrative offices of a municipality or franchised utility.
- 23.3.12 Solid Waste Transfer Station: A facility and/or premises at which solid waste is temporarily deposited prior to ultimate removal to a permanent solid waste storage site.
- 23.3.13 Telephone Exchange: A switching or transmitting station owned by a public utility but not including business offices, storage, or repair shops or yards.

#### 23.4 Automobile and Related Service Uses

- 23.4.1 Auto Laundry: See Car Wash.
- 23.4.2 Auto Leasing: Storage and leasing of automobiles, motorcycles, and light load vehicles.
- 23.4.3 Auto Parts Sales (Inside): The use of any building or other premise for the display and sale of new or used parts for automobiles, panel trucks, vans, tractor trailers, or recreational vehicles.
- 23.4.4 Auto Parts Sales (Outside): The use of any land area for the display and

sale of new or used parts for automobiles, panel trucks, vans, tractor trailers, or recreation vehicles.

- 23.4.5 Automobile Repair, Major: General repair or reconditioning of engines and air-conditioning systems for motor vehicles; wrecker service; collision services including body, frame or fender straightening or repair; customizing; overall painting or paint shop; vehicle steam cleaning; those uses listed under "automobile repair, minor", and other similar uses.
- 23.4.6 Automobile Repair, Minor: Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems, and other similar minor services for light load vehicles, but not including any operation named under "automobile repair, major" or any other similar use.
- 23.4.7 Automobile and Trailer Sales, New: Building(s) and associated open area other than a street or required automobile parking space used for the display or sale of primarily new automobiles, light trucks, and trailers, to be displayed and sold on premises, and where no repair work is done except minor reconditioning of the automobiles and trailers to be displayed and sold on the premises, and no dismantling of automobiles or trailers for sale or keeping of used automobile and trailer parts or junk on the premises.
- 23.4.8 Automobile and Trailer Sales, Used: Building(s) and associated open area other than a street or required automobile parking space used for the display and sale of used automobiles, light trucks, or trailers in operating condition and where no repair work is done except the minor adjustments of the vehicles to be displayed or sold on the premises. A used car sale area shall not be used for the storage of wrecked automobiles or the dismantling of automobiles or the storage of automobile parts or junk on the premises.
- 23.4.9 Automobile Service Station: A building or place arranged, designed, used, or intended to be used for the primary purpose of dispensing gasoline, oil, diesel fuel, liquified petroleum gases, greases, batteries, and other automobile accessories at retail direct to the on-premise motor vehicle trade provided that the above services shall not be construed to include major overhaul, the removal and/or rebuilding of an engine, cylinder head, oil pan, transmission, differential, radiator springs, or axles; steam cleaning, body or frame work, painting, upholstering and replacement of glass. If the dispensing or offering for sale of auto fuel at retail is incidental, the premises shall be classified as a public garage. Service stations shall not allow automobiles which are inoperative or are being repaired to remain outside such service station for a period greater than

seven (7) days.

- 23.4.10 Auto Storage: The storage on a lot or tract of operable automobiles for the purpose of holding such vehicles for sale, distribution, or storage.
- 23.4.11 Automobile Wrecking Yard or Junk Yard: Any building, structure, or open area used for the dismantling or wrecking of any type of used vehicles or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts and accessories, including any farm vehicles or farm machinery or parts thereof, stored in the open and not being restored to operating condition, including the commercial salvaging, storage, and scraping of any other goods, articles, or merchandise.
- 23.4.12 Bus Terminal: Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers.
- 23.4.13 Car Wash: Facility or structure used to wash motorcycles, automobiles, vehicles and trucks.
- 23.4.14 Parking Lot or Parking Garage, Automobile: Area for parking light load vehicles.
- 23.4.15 Parking Lot or Parking Garage, Truck: Area for parking heavy load vehicles.
- 23.4.16 Quick Oil Change Facility: A business engaging in the changing of oil, oil filters, and the chassis lubrication of motor vehicles. All new oil shall be dispensed from drums and all old oil shall be kept in sumps until removed by pumper trucks.
- 23.4.17 Quick Tuneup Facility: A business engaging in engine adjustment and minor part replacement for motor vehicles, limited to spark plugs, condensers, spark plug wires, distributor caps, distributor points, PVC valves, air cleaners, fan belts and radiator hoses. Such a facility shall not repair or replace carburetors, starters, alternators, generators, radiators, water pumps, or other major engine parts, brake shoes, or mufflers.
- 23.4.18 Truck and Bus Leasing: The rental of new or used panel trucks, vans, trailers, recreational vehicles, or motor-driven buses in operable condition and where no repair work is done.
- 23.4.19 Truck and Bus Repair: An establishment providing major and minor automobile repair services to heavy load vehicles.
- 23.4.20 Truck or Motor Freight Terminal: A building or area in which freight brought by motor truck is assembled and/or stored for shipping by motor truck.

23.4.21 Truck Sales: Building(s) and associated open area other than a street or required automobile parking space used for the display or sale of primarily new heavy load vehicles, to be displayed and sold on premises, and where no repair work is done except minor reconditioning of the vehicles to be displayed and sold on the premises, and no dismantling of vehicles for sale or keeping of used vehicle parts or junk on the premises.

## 23.5 Retail and Service Type Uses

23.5.1 Air Conditioning and Refrigeration Contractor: A place from which a person performs design, installation, construction, maintenance, service, repair, alteration or modification of a product or of equipment in environmental air conditioning, commercial refrigeration, or process cooling or heating systems, under terms and conditions described in the Texas Air Conditioning and Refrigeration Contractor License Law, Vernon's Ann.Civ.St.,art. 8861.

23.5.2a Amusement, Commercial (Indoor): An establishment providing for activities, services and instruction for the entertainment, exercise and improvement of fitness and health of customers, clients or members but not including hospitals, clinics, massage parlors or arcades. Uses would typically include bowling alleys, ice or roller skating rinks, racquetball and handball courts, indoor tennis courts, weight lifting and nautilus facilities, exercise areas, swimming pools and spas, bingo parlors, martial arts, classrooms and/or practice areas, gymnasiums and indoor running or jogging tracks.

23.5.2b Amusement, Commercial (Outdoor): An outdoor area or structure, open to the public, which provides entertainment or amusement for a fee or admission charge, including but not limited to batting cages, miniature golf, go-kart tracks and carnivals.

23.5.3 Antique Shop: A retail establishment engaged in the selling of works of art, furniture or other artifacts of an earlier period, with all sale and storage occurring inside a building.

23.5.4 Arcade: An establishment in which there are located six (6) or more coin operated skill or pleasure machines.

23.5.5a Bakery and Confectionery, Retail Sales: A place for preparing, cooking, baking and selling of products on the premises.

23.5.5b Bakery and Confectionery, Commercial: A place for preparing, cooking or baking of products primarily intended for off-premise distribution.

23.5.6 Bank, Savings and Loan, Credit Union: An establishment for the custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds.

- 23.5.7a Barber Shop: A place where barbering, as defined in Texas Barber Act, Vernon's Annotated Civil Statutes (Vernon's Ann.Civ.St.), art. 8407, is practiced, offered, or attempted to be practiced, except when such place is duly licensed as a barber school or college.
- 23.5.7b Barber School or College: A place of training for practice of barbering, as defined in Texas Barber Act, Vernon's Ann.Civ.St., art. 8407, meeting standards established in Section 9 of said Texas Barber Act.
- 23.5.7c Beauty Culture School; Cosmetology Specialty Shop: A specialized place of training, as defined in the Cosmetology Regulatory Act, Vernon's Ann.Civ.St., art. 8451.
- 23.5.7d Beauty Shop: A place where cosmetology, as defined in the Cosmetology Regulatory Act, Vernon's Ann.Civ.St., art. 8451, is practiced.
- 23.5.8 Building Materials, Hardware Sales: The sale of new building materials and supplied indoors with related sales for hardware, carpet, plants, electrical and plumbing supplies all of which are oriented to the retail customer, rather than contractor or wholesale customer.
- 23.5.9 Business Service. Establishments primarily engaged in providing services not elsewhere classified to business enterprises on a fee contract basis including but not limited to advertising agencies, computer programming and software services, and office equipment rental or leasing.
- 23.5.10 Cabinet and Upholstering Shop: An establishment used for the production, display and sale of furniture and soft coverings for furniture.
- 23.5.11 Cleaning and Dyeing, Small Plant or Shop: A custom cleaning shop not exceeding five thousand (5,000) square feet of floor area or a pickup station. (Also see Cleaning and Dyeing; Dry Cleaning Plant).
- 23.5.12 Clinic, Medical or Dental: A facility or station designed and used for the examination and treatment of persons seeking medical care as outpatients who do not remain on the premises overnight.
- 23.5.13 Convenience Store: A retail establishment providing for the sale of food items, non-prescription drugs, small household items, and gifts. Gasoline and diesel fuel may be offered for sale provided they are not the primary source of income for the store and that no more than six (6) pumps are offered. Maximum size of the establishment will be no more than 2,500 square feet not including storage areas and administrative offices.
- 23.5.14 Custom Personal Service Shop: Includes such uses as tailor, shoe repair, barber/beauty shop, health studio, or travel consultant.
- 23.5.15 Discount, Variety, or Department Store: A retail store offering a wide

variety of merchandise in departments and exceeding 7,000 square feet of floor area.

- 23.5.16 Feed and Farm Supply Store: An establishment for the selling of food stuffs for animals and including implements and goods related to agricultural processes but not including farm machinery.
- 23.5.17 Flea Market: A site where space inside or outside a building is rented to vendors on a short-term basis for the sale of merchandise. The principal sales shall include new and used household goods personal effects, tools, art work, small household appliances, and similar merchandise, objects or equipment in small quantities. The term flea market shall not be deemed to include wholesale sales establishments or rental services establishments, but shall be deemed to include personal services establishments, food services establishments, retail sales establishments, and auction establishments.
- 23.5.18 Florist: An establishment displaying plants, flowers, floral supplies, and similar items.
- 23.5.19 Food Store, Grocery Store: An establishment that displays and sells consumable goods that are not to be eaten on the premises.
- 23.5.20 Furniture, Appliance Store: Retail stores selling goods used for furnishing the home, including but not limited to furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators and other household electrical and gas appliances.
- 23.5.21 Garden Center (Retail Sales): Location including land and buildings at which plants, trees, shrubs, horticultural supplies, and similar items are displayed for sale to the general public. All such displays shall be located behind the front yard line established in the district in which the garden center is located.
- 23.5.22 General Merchandise Store: Retail stores which sell a number of lines of merchandise including but not limited to dry goods apparel and accessories, furniture and home furnishings, small wares, hardware, and food. The stores included in this group are known as department stores, variety stores, general stores, and other similar stores.
- 23.5.23 Household Appliance Service and Repair: The maintenance and rehabilitation of appliances customarily used in the home including but not limited to washing and drying machines, refrigerators, dishwashers, trash compactors, ovens and rangers, kitchen appliances, vacuum cleaners, and hair dryers.
- 23.5.24 Laboratory, Scientific or Research: Facilities for research including

laboratories, experimental equipment, and operations involving compounding or testing of materials or equipment.

- 23.5.25 Laundry and Cleaning Self-Service: An establishment including facilities for laundering and cleaning of clothing and similar items to be operated by the patron; not a commercial laundry or cleaning plant.
- 23.5.26a Metal Dealer, Secondhand: A place of business in which a person purchases, gathers, collects, solicits or procures scrap metal or where scrap metal is gathered together or kept for shipment, sale, or transfer, under terms and conditions found in Vernon's Ann.Civ.St.,art.9009. (Also see Junk or Salvage Yard).
- 23.5.26b Metal Dealer, Crafted Precious: A place of business in which a person engages in the business of purchasing and selling crafted precious metals, including jewelry, silverware, art objects, or any other thing or object made in whole or in part from gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium, or heir alloys, including coins and commemorative medallions, under terms and conditions found in Vernon's Ann.Civ.St.,art.990a.
- 23.5.27 Reserved for future use.
- 23.5.28 Office Center. A building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper, or candy stand.
- 23.5.29 Office, Professional or General Administrative: A room or group of rooms used for the provision of executive management, or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations, and association but excluding medical offices.
- 23.5.30 Office - Showroom/Warehouse: An establishment with a minimum of seventy-five percent (75%) of its total floor area devoted to storage and warehousing not accessible to the public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.
- 23.5.31 Pawn Shop: An establishment where money is loaned on the security of personal property pledged in the keeping of the owner (pawnbroker).
- 23.5.32 Personal Service Shop: An establishment primarily engaged in providing services generally involving the area of the person or his apparel including but not limited to barber and beauty shops, dry cleaning and laundry pick-

up stations and reducing salons/health clubs.

- 23.5.33 Pet Shop or Animal Salon: A retail establishment offering small animals, fish, or birds for sale as pets and where all such creatures are housed within the building.
- 23.5.34 Plumbing, Heating, Refrigeration, or Air-Conditioning Business: An establishment primarily engaged in the sales, service, or installation of equipment pertaining to plumbing, heating, refrigeration, or air conditioning. (Also see Air Conditioning and Refrigeration Contractor).
- 23.5.35 Plumbing Service: The operation of a business which involves only retail sales and off-premises service, installation, and repair of units and fixtures. The premises shall not include a workshop for repair or fabrication of parts, fixtures, or units. Sheet metal work of any type shall not be permitted. Storage shall be permitted for units and supplies incidental to retail sales, off-premises service and repair only. No outside storage shall be permitted. This section shall not be interpreted to allow a plumbing, heating, refrigeration, or air conditioning contractor or similar type wholesale operation.
- 23.5.36 Portable Building Sales: An establishment which displays and sells structures which are capable of being carried and transported to another location, not including mobile homes or manufactured housing.
- 23.5.37 Post Office, Government or Private: Local branch of the United States Postal Service or private commercial venture engaged in the distribution of mail and incidental services.
- 23.5.38 Print Shop: An establishment which reproduces printed or photographic impressions including but not limited to the process of composition, binding, plate making, microform, type casting, press work, and printmaking.
- 23.5.39 Racquetball Facilities: Courts housed in an acoustically-treated building and designed for one (1) to four (4) persons to play racquetball, plus subsidiary uses to include office, pro shops, locker rooms, sauna, exercise rooms, waiting area, child nursery, and related uses up to a maximum of forty percent (40%) of the total floor area.
- 23.5.40 Retail Stores and Shops: Establishments offering all types of consumer goods for sale, not elsewhere classified, but excluding the display and sale in the open outside a building of new or used automobiles, heavy machinery, building materials, used appliances, furniture, or salvage materials.
- 23.5.41 Second Hand Store, Furniture or Clothing: An establishment offering for

sale used merchandise, with the storage and display of such items wholly contained inside a building or structure.

- 23.5.42 Service, Retail: An establishment engaged in the selling and/or servicing of goods where a minimum of eighty percent (80%) of the floor area is devoted to service, repair or fabrication of such goods. The service area must not be accessible to the general public. Automotive uses and rental stores are specifically excluded.
- 23.5.43 Shopping Center: A group of primarily retail and service commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, provision of aesthetically appropriate design and protection from the elements.
- 23.5.44 Theater (Outdoor): An open lot with its appurtenant facilities devoted primarily to the showing of motion picture or theatrical productions on a paid admission basis to patrons seated in automobiles.
- 23.5.45 Trailer, Manufactured Housing, or Mobile Home Display and Sales: The offering for sale, storage, or display of trailers, manufactured housing, or mobile homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis.
- 23.5.46 Trailer Rental: The display and offering for rent of trailers designed to be towed by passenger cars or other prime movers.
- 23.5.47 Washateria: A building or place where clothes and linens are washed and thoroughly dried by the use of not exceeding three (3) employees and four (4) automatic single family machines and where the operation of washing and/or drying and/or mangle machines is done exclusively by the customer on a self-service basis, and where the fuel and power for the heating of water and drying shall be smokeless and odorless. (See Laundry and Cleaning, Self-Service).

## 23.6 Manufacturing, Storage, and Warehousing Uses

- 23.6.1 Bottling Works: A manufacturing facility designed to place a product into a bottle for distribution.
- 23.6.2 Cleaning and Dyeing: Dry Cleaning Plant: An industrial facility where fabrics are cleaned and substantially nonaqueous organic solvents. (Also see Cleaning and Dyeing, Small Plant or Shop, Section 23.5.11).
- 23.6.3 General Commercial Plant: An establishment other than a personal service shop for the treatment and/or processing of products as a service on a for-profit basis including but not limited to newspaper printing, laundry plant, or cleaning and dyeing plant.

- 23.6.4 General Manufacturing: Manufacturing of finished products and component products or parts from the transformation, treatment, or processing of materials or substances, including basic industrial processing. Such operations must meet the performance standards, bulk controls, and other requirements in this ordinance.
- 23.6.5 Industrial Park: A large tract of land that has been planned, developed, and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.
- 23.6.6 Junk or Salvage Yard: A lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes an automobile wrecking yard and automobile parts yard. A "junk yard" does not include such uses conducted entirely within an enclosed building. (Also see Metal Dealer, Secondhand)
- 23.6.7 Light Manufacturing: Manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
- 23.6.8 Self-Storage, Mini-Warehouse: A facility used for storage of goods and/or materials with separate access to individual storage units by persons renting the individual units.
- 23.6.9 Storage or Wholesale Warehouse, Light: A building used primarily for the storage of goods and materials, containing less than 5,000 square feet of floor space.
- 23.6.10 Storage or Wholesale Warehouse, Heavy: A building used primarily for the storage of goods and materials, containing more than 5,000 square feet of floor space.

## 23.7 Accessory Uses

- 23.7.1 Accessory Building or Use: An accessory building or use is one which: (a) is subordinate to and serves a principal building or principal use; and (b) is subordinate in area, extent, or purpose to the principal building or principal use served; and (c) contributes to the comfort, convenience and necessity of occupants of the principal building or principal use served; and (d) is located on the same building lot as the principal use served.
- 23.7.2 Carport: A structure open on a minimum of three (3) sides designed or

used to shelter vehicles, not to exceed thirty-six (36) feet on its longest dimension.

- 23.7.3 Construction Yard (Temporary): A storage yard or assembly yard for building materials and equipment directly related to a construction project and subject to removal at completion of construction and subject to same restrictions as Field Office. (Also see Section 24.2).
- 23.7.4 Field or Sales Office (Temporary): A building or structure, of either permanent or temporary construction, used in connection with a development or construction project for display purposes or for housing temporary supervisory or administrative functions related to development, construction or the sale of real estate properties within the active development or construction project. Permits for "temporary buildings" shall be issued for a period of time not to exceed eighteen (18) months. Extensions may be granted only by the City Council, any such permits granted may be revoked if the City Council finds the use of the building or structure is contrary to the intent of this section or results in increased noise, traffic, or other conditions considered to be a nuisance or hazard (Also see Section 23.7.3. above.)
- 23.7.5 Customary Home Occupation: An occupation, profession, domestic craft, or economic enterprise which is customarily conducted in a "residential dwelling" as hereinafter defined, subject to compliance with each of the following conditions:
- a) "Residential dwelling" shall mean a detached building designed, used and occupied exclusively by members of one (1) family as a residence.
  - b) Such use shall be and remain incidental and subordinate to the principal use of the residential dwelling as a family residence and the area utilized for such occupation, profession, domestic craft, or economic enterprise shall never exceed twenty-five percent (25%) of the total of the floor area of the residential dwelling.
  - c) Not more than one (1) non-illuminated sign advertising the home occupation shall be allowed; said sign shall be not more than one (1) square foot in area and shall be mounted on the building in which the home occupation is being conducted.
  - d) The residential dwelling shall maintain its residential character and shall not be altered or remodeled in order to create any type of exterior commercial appeal.
  - e) No exterior storage of material, equipment, and/or supplies used in conjunction with such occupation, profession, domestic craft, or enterprise shall be placed, permitted, or allowed on the premises

occupied by the residential dwelling.

- f) No offensive noise, vibration, smoke, dust, odors, heat, or glare generated by or associated with the home occupation shall extend beyond the property line of the lot or tract on which the home occupation is being conducted.
- g) The occupation, profession, domestic craft, or enterprise shall be conducted wholly within the residential dwelling and no accessory building shall be used in conjunction therewith.
- h) The only equipment to be used in such occupation, profession, domestic craft, or enterprise shall be that which is ordinarily used in a private home in a like amount and kind.
- i) A home occupation shall not generate such additional traffic as to create a traffic hazard or disturbance to nearby residents.

23.7.6 Garage, Private: A detached accessory building or portion of the main building for the parking or temporary storage of automobiles of the occupants of the premises; if occupied by vehicles of others, it is a storage space.

## **SECTION 24**      **SPECIAL USES**

### 24.1 Child Care Centers

- 24.1.1 No portion of a child care center site may be located within three hundred (300) feet of gasoline pumps or underground gasoline storage tanks, or any other storage area for explosive or highly combustible materials.
- 24.1.2 Child care centers shall be located adjacent to a street having a pavement width of twenty seven (27) feet or greater.
- 24.1.3 Site plan approval by the Planning and Zoning Commission shall be required for all child care center sites, whether or not a Specific Use Permit is required.
- 24.1.4 Child care centers located within any single family or two family residential district shall be required to plat in multiples of the minimum lot width of the district classification requirements. The lot depth shall meet the minimum district requirements and must be platted in a configuration which can be converted into standard lots for residential development.
- 24.1.5 All child care centers shall comply with the following standards:

- 24.1.5.1 All vehicular entrances and exits shall be clearly visible from the street.
- 24.1.5.2 All passenger loading and unloading areas shall be located so as to avoid safety hazards from vehicular traffic and adequate walkways shall be provided.
- 24.1.5.3 Outdoor play areas shall be provided at a rate of 65 square feet per child based on maximum design capacity of the center. This requirement may be waived by the Planning and Zoning Commission if the child care is provided for less than four (4) hours per day for an individual person.
- 24.1.5.4 In residential districts, a maximum of one-half of the required outdoor play space may be provided off-site. When off-premises outdoor play areas are utilized, it must be located within one hundred (100) feet of the child care facility premises and safely accessible without crossing, at-grade, any major or secondary thoroughfare.
- 24.1.5.5 No child care center shall be part of a one family or two family dwelling.

## 24.2 Construction Yards, Field Offices, and Other Temporary Buildings.

Temporary permits for construction yards and field offices and special use permits or variances regulating temporary buildings shall be issued for a period of time not to exceed eighteen (18) months. Extensions may be granted by the City Council. Upon due notice and hearing before the City Council, any such permit may be revoked if the City Council finds the use of the building or structure is contrary to the intent of this ordinance or results in increased noise, traffic, or other conditions considered to be a nuisance or hazard.

## 24.3 Radio, Television, and Microwave Towers

- 24.3.1 No radio, television, or microwave tower shall be located within a distance equal to at least the height of such tower from any residential structure or from any area zoned residential, or shown as residential on the current Comprehensive Plan. Such distance shall be measured as the shortest possible distance in a straight line from the closest point of the tower to the closest point of such area or residence.
- 24.3.2 No commercial, radio, television, or microwave reflector antenna support structure shall be closed to any residential district boundary line or any area shown as residential on the current Comprehensive

Plan than a distance equal to the sum of the required yard specified for the zoning district in which such building or structure is located, plus 25 feet, plus twice the height of the portion of the structure above two (2) stories. Such distance shall be measured as the shortest possible distance in a straight line from the structure to the closest point of such area or residence.

- 24.3.3 The location of radio, television, or microwave reflectors, antennas, or support structures and associated foundations and any support wires shall be prohibited within any required front or side yard.
- 24.3.4 All commercial communication operations or radio, television, or microwave reflectors, antennas, or structures shall be prohibited in residential districts.
- 24.3.5 All commercial signs, flags, lights and attachments other than those required for communications operations, structural stability, or as required for flight visibility by the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) shall be prohibited.

#### 24.4 Residence Hotels

Residential hotels shall be designed to allow for their potential conversion to multifamily residences and as such shall comply with all minimum standards set forth in Section 15. Residence hotels constructed in the MF district shall comply with the MF district requirements. Open space shall be provided in sufficient quantity and locations to allow for required additional parking should the residence hotel convert to multifamily residences.

#### 24.5 Garden (Patio) Homes

- 24.5.1 Location on Lot: Garden (patio) home developments shall be developed as zero lot line homes. One side yard shall be reduced to zero feet, while the other side yard shall be increased to a minimum of ten feet. A minimum three-foot wide maintenance easement shall be placed on the adjacent lot to enable the property owner to maintain his house. Side yards and maintenance easements shall be placed on the subdivision plat. A minimum separation between patio homes of ten (10) feet shall be provided. The combined area of all structures shall not exceed sixty-five (65) percent of the lot area.
- 24.5.2 Front Yard Setback: The minimum front yard shall be fifteen (15) feet, provided that in no case shall a garage or carport fronting onto a street be less than twenty (20) feet from the property line adjacent to the street. The front yard setback may be staggered, varied, or reduced to a minimum setback of ten (10) feet for lots facing cul-de-

sac or loop streets not exceeding four hundred (400) feet in length, with the approval of a site plan or subdivision plat. Under this provision the maximum setback shall be twenty-five (25) feet. A minimum lot depth of sixty-five (65) feet, as measured from front building line to the rear lot line, shall be maintained.

- 24.5.3 Rear Yard Setback: The minimum rear yard shall be five (5) feet for a single story structure and fifteen (15) feet for any two story structure. If access is from an alley, the minimum setback will be twenty (20) feet for garages or carports.
- 24.5.4 Side Yard Setback: The minimum side yard shall be zero (0) feet except that there shall be at least ten (10) feet of separation between structures. When garden (patio) homes are constructed with a zero (0) side yard, five (5) feet on the lot adjacent to the zero (0) setback shall be dedicated as an access easement for the zero (0) setback garden (patio) home. There shall be a minimum of twenty (20) feet from any property line adjacent to a street.
- 24.5.5 Lot Frontage: The minimum frontage of any garden (patio) home shall be twenty-five (25) feet on residential streets and thirty-five (35) feet on collector and thoroughfare streets.
- 24.5.6 Lot Area: The minimum lot area for any development lot for garden (patio) homes shall be two thousand eight hundred (2,800) feet.
- 24.5.7 Maximum Length of Structures: No zero lot line structure shall have an overall length exceeding two hundred and fifty (250) feet.
- 24.5.8 Maximum Height of Structures: No structure shall exceed two (2) stories or thirty-five (35) feet in height.
- 24.5.9 Parking: Two (2) off-street spaces per dwelling unit plus one-half (1/2) space per dwelling unit for visitor parking within six hundred (600) feet of each dwelling unit. the visitor parking requirements may be eliminated or reduced at the time of site plan or subdivision plat approval with a finding that there is adequate on-street parking for visitors.
- 24.5.10 Common Area Maintenance: To insure the long term maintenance of common land and facilities in patio home developments, the following shall be required:
- (a) Plats and site plans shall be approved subject to the submission of a legal instrument setting forth a plan or manner of permanent area and maintenance of open spaces, recreational areas and other communally owned facilities. No such instrument shall be acceptable until

approved by the City Attorney as to legal form and effect. A Homeowners Association (HOA) is the most widely accepted technique for managing commonly owned property. Such association shall provide proof of incorporation prior to issuance of a construction permit.

- (b) The HOA or other similar management entity shall be organized as a non-profit corporation with automatic membership in the management entity when property is purchased. This shall be specified in the covenants which run with the land and which bind all subsequent owners. Covenants for maintenance assessments shall also run with the land. Included in the maintenance covenants shall be procedures for changing them at stated intervals. Deeds shall also reference the rights and responsibilities of property owners to the management entity. The management entity shall also be responsible for liability insurance, local taxes, and the maintenance of all commonly held facilities through the use of a pro-rate formula for all property owners.

24.5.11 Usable Open Space Requirements: Each parcel of land developed under patio home standards shall provide usable open space totaling fifteen percent (15%) of the area of a patio home development. Such open space shall have a maximum slope of ten percent (10%) and shall be exclusive of street and alley rights-of-way and/or easements, individually platted lots without open space easements, private yards and patios. The fifteen percent (15%) shall be computed on the percentage of total platted area in a patio home subdivision, excluding right-of-way for major and secondary thoroughfares (as described in the current Comprehensive Plan.) At the time of site plan and/or subdivision plat approval, the City Council may give full or partial credit for open areas that exceed the maximum slope or which are otherwise unusable if it is determined that such areas are environmentally or aesthetically significant and that their existence enhances the development.

24.5.12 Additional Landscaping: In addition to any required landscaping for common areas, the front yard and parkway areas shall be landscaped and permanently maintained.

## 24.6 Multifamily Residence:

24.6.1 Courts: Where an apartment building is erected so as to create inner courts, the faces of all opposite walls in such courts shall be a minimum distance of thirty (30) feet apart and no balcony or canopy shall extend into such court area for a distance greater than five (5) feet.

24.6.2 Usable Open Space: Each lot or parcel of land which is used for multiple-family residences shall provide on the same lot or parcel of land usable open space (as defined in Section 34.2.101), in accordance with the table below:

USABLE OPEN SPACE REQUIREMENT

Number of Bedrooms  
or Sleeping Rooms

---

Less 1 or  
600 Sq. Ft.

Each Additional  
Bedroom Over 1 300 Sq. Ft.

In those instances where a parcel of land has been zoned for multifamily use with a Specific Use Permit or Planned Development classification and the permitted densities do not conform exactly with those permitted in the MF District, usable open space shall be provided in accordance with that required for the multifamily zoning district which most closely approximates the density permitted under the SUP or PD.

In meeting this requirement, a credit of three (3) square feet may be applied for each square foot utilized for swimming pools and adjacent decks, patios, or lounge areas within ten (10) feet of a pool; developed and equipped children's play areas; and usable portions of recreational buildings. Tennis courts are specifically excluded from this increased credit allowance. At the time of site plan approval, the Planning and Zoning Commission and/or City Council may allow a credit not to exceed ten percent (10%) of the total required usable open space for adjacent and immediately accessible public parks. The combined credit for areas calculated at a three-to-one basis and for public parks shall not exceed fifty percent (50%) of the total usable open space for an individual lot or parcel of land.

At the time of site plan approval, the City Council may give full or partial credit for open areas that exceed the maximum slope, if it is determined that such areas are environmental significant and that their preservation would enhance the development.

24.7 Service Stations

Gasoline service station pump islands may not be located nearer than eighteen (18) feet to the front property line. An unenclosed canopy for a gasoline filling station may extend beyond the front building line but shall not be closer than ten (10) feet to the property line.

24.8 Swimming Pools

It is the purpose of the following provisions to recognize an outdoor swimming pool as a potentially attractive nuisance and to promote the safety and enjoyment of property rights by establishing rules and regulations governing the location and improvement of swimming pools whether privately, publicly, or commercially owned or operated.

24.8.1 No swimming pool shall be constructed or used until a swimming pool building permit has been issued therefor. No building permit shall be issued unless the proposed sanitary facilities and water supply comply with applicable local and State health departments regulations.

24.8.2 A swimming pool erected below ground or above ground with a depth of two (2) feet or greater may be constructed and operated when:

24.8.2.1 the pool is not located in any required front or side yard abutting a street;

24.8.2.2 a wall or fence, not less than six (6) feet in height, with self-enclosing and self-latching gates that are lockable at all entrances, completely encloses either the pool area or the surrounding yard area;

24.8.2.3 all lighting of the pool is shielded or directed to face away from adjoining residence. If lights are not individually shielded they shall be so placed, or the enclosing wall or fence shall be so designed, that direct rays from the lights shall not be visible for adjacent properties;

24.8.2.4 no broadcasting system is used for the purpose of advertising the operation of the pool or for the attraction of persons to the premises. This shall not prevent a public address system necessary or useful to the supervision of the pool and the safety of swimmers; and

24.8.2.5 the swimming pool is no closer than eight (8) feet from any property line.

## 24.9 Fences

24.9.1 Metal fences shall not be allowed in the required front yard in any district.

24.9.2 No fence or hedge shall exceed three (3) feet height in the required front yard in any district.

24.9.3 No fence shall exceed eight (8) feet in height.

- 24.9.4 Fences shall be constructed of customary urban fencing materials such as wood, masonry or cyclone fencing. No barb wire shall be allowed on any fencing.

## **SECTION 25**      **SPECIFIC USE PERMIT**

### 25.1 General Provision

- 25.1.1 As permitted under the provisions of this ordinance, a property owner may petition the City for a specific use of property, as authorized by the zoning district in which the property is located. Such petition shall be considered by the Planning and Zoning Commission. After proper notice and a public hearing, the Planning and Zoning Commission shall make a recommendation to the City Council regarding any application for a Specific Use Permit. The Planning and Zoning Commission may require information, operating data, and expert evaluation concerning the location and function and characteristics of any building or use proposed.
- 25.1.2 An application for a Specific Use Permit (SUP) shall be accompanied by a site plan drawn to scale and showing the general arrangements of the project, together with essential requirements such as off-street parking facilities; size, height, construction materials and locations of buildings; the uses to be permitted; location and construction of signs; means of ingress and egress to public streets; visual screening such as walls, landscaping, and fences; and the relationship of the intended use to all existing properties and land uses in all directions to minimum distance of two hundred (200) feet.
- 25.1.3 After proper notice and a public hearing, the City Council may grant a permit for a specific use of property as authorized by the zoning district in which the property is situated. The City Council may require information, operating data, and expert evaluation concerning the location and function and characteristics of any building or use proposed.

### 25.2 Specific Use Permit Regulations

- 25.2.1 In recommending that a specific use permit for the premises under consideration be granted, the Planning and Zoning Commission shall determine that such use or uses are harmonious and adaptable to building structures and uses of adjacent property and other property in the vicinity of the premises under consideration, and shall make recommendations as to requirements for the paving of streets, alleys, and sidewalks, means of access to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, heights of structures, and compatibility

of buildings.

- 25.2.2 The City Council shall authorize issuance of a Specific Use Permit only after determining that the proposed use or uses are harmonious and adaptable to building structures and uses of adjacent property and other property in the vicinity of the premises under consideration.
- 25.2.3 The City Council shall authorize issuance of a Specific Use Permit only after determining that adequate provisions have been made for the paving of streets, alleys, and sidewalks, means of access to public streets, provisions for drainage, adequate off-street parking, protective screening and open space, heights of structures, and compatibility of buildings.
- 25.2.4 No Specific Use Permit shall be granted unless the applicant, owner, and grantee of the Specific Use Permit shall be willing to accept and agree to be bound by and comply with the written requirements of the permit, as attached to the site plan drawing (or drawings) and approved by the City Council. No public hearing is necessary for site plan approval.
- 25.2.5 Whenever regulations or restrictions imposed by this ordinance are either more or less restrictive than regulations imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules or restrictions which are more restrictive or impose higher standards or requirements shall govern. Regardless of any other provision of this ordinance, no land shall be used and no structure erected or maintained in violation of any State or Federal pollution control or environmental protection law or regulation.
- 25.2.6 When the City Council authorizes granting of a Specific Use Permit, the Zoning Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses.

## **SECTION 26**

## **OFF-STREET PARKING AND LOADING REQUIREMENTS**

### **26.1 Purpose**

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

## 26.2 Special Off-Street Parking Provisions - Residential Districts

- 26.2.1 Required off-street parking shall be provided on the same site as the use it serves.
- 26.2.2 No parking shall be allowed except on a paved concrete or bituminous parking space surface.
- 26.2.3 No parking structure, including garages, carports, or similar structures, shall be located within the required front, side, or rear yards of a lot or tract (Exception: Ten (10) feet from your property line where paved alleys are provided by developer).

## 26.3 Size of Space

- 26.2.1 Each standard off-street surface parking space shall measure not less than nine (9) feet by twenty (20) feet, exclusive of access drives and aisles, and shall be of usable shape and condition. Where it is possible for a vehicle to overhang the front of a parking space above a paved, stoned, mulched, or grassed area other than a sidewalk, street, right-of-way, or adjacent property, the length of the standard space may be reduced to eighteen (18) feet.
- 26.3.2 Each small car off-street parking space shall measure not less than eight and one-half (8.5) feet by sixteen (16) feet, exclusive of access drives and aisles, and shall be of usable shape and condition. Where it is possible for a vehicle to overhang the front of a parking space above a paved, stoned, mulched, or grassed area other than a sidewalk, street right-of-way or adjacent property, the length of the small car space may be reduced to fifteen (15) feet. All small car parking spaces shall be grouped and located in specific areas so as not to be scattered throughout a parking lot.
- 26.3.3 A maximum of fifty percent (50%) of the required parking for a general office or light manufacturing plant may be permitted as small car spaces upon approval of a site plan but only when both of the following conditions are met:
  - 26.3.3a Signage will identify the small car spaces; and
  - 26.3.3b The entire grounds and building served by the small car spaces are occupied and controlled by one tenant who shall be responsible for policing the use of the small car spaces.
- 26.3.4 Each parking space (on-street or off-street) designed for parallel parking shall have a minimum dimension of eight (8) feet by twenty-two (22) feet.

- 26.3.5 Each standard parking space located in a parking garage shall measure not less than nine (9) feet by eighteen (18) feet, exclusive of access drives or aisles.

#### 26.4 Parking Area Standards

- 26.4.1 To prevent nuisance situations, all parking area lighting shall be designed and operated so as not to reflect or shine on adjacent properties. For safety and fire-fighting purposes, free access through to adjacent parking areas shall be provided where practical.
- 26.4.2 Except for single family and duplex uses, parking spaces shall be permanently and clearly identified by stripes, buttons, tiles, curbs, barriers, or other approved methods. Nonpermanent type marking, such as paint, shall be regularly maintained to ensure continuous clear identification of the space.

#### 26.5 Off-Street Parking Incidental to Main Use

Off -street parking shall be provided in accordance with the requirements specified by this ordinance and located on the lot or tract occupied by the main use or in accordance with Section 26.9 and located within the same zoning district as the main use.

#### 26.6 Schedule of Parking Requirements Based on Use

Off-street parking shall be provided in sufficient quantities to provide the following ration of vehicle spaces for the uses specified in the districts designated. [Where a calculation results in requiring a fractional space, one additional space shall be required.]

- 26.6.1 Bank, savings and loan or similar financial establishment: One (1) space for each two hundred (200) square feet of total floor area.
- 26.6.2 Business or professional office, studio, medical or dental clinic: Three (3) parking spaces plus one (1) additional parking space for each two hundred (200) square feet of floor area over five hundred (500) feet.
- 26.6.3 Church or other place of worship: One (1) parking space for each (4) seats in the main auditorium.
- 26.6.4 Clinic of doctor's or dentist's office: One (1) space for each two hundred (200) square feet of total floor area.
- 26.6.5 Community center, library, museum or art gallery: Ten (10) parking spaces plus one (1) additional space for each three hundred (300)

square feet of floor area in excess of two thousand (2,000) square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided as the basis of one (1) space for each four (4) seats that it contains.

26.6.6 College or university: One (1) space for each two (2) students, plus one (1) space for each classroom, laboratory or instruction area.

26.6.7 Commercial Amusement (indoor):

26.6.7a Bowling Alley - 6 spaces for each lane;

26.6.7b Racquetball or handball courts - 4 spaces for each court;

26.6.7c Indoor tennis courts - 6 spaces for each court;

26.6.7d Gymnasium, skating rinks, and martial arts schools or areas - 1 space for each 3 seats at maximum seating capacity, plus 1 space for each two hundred (200) square feet;

26.6.7e Swimming Pool - 1 space for each one hundred (100) square feet of gross water surface and deck area;

26.6.7f Weight lifting or exercise areas - 1 space for each one hundred (100) square feet;

26.6.7g Bingo Parlors - 1 space for 3 seats (design capacity) or 1 per one hundred (100) square feet of total floor area, whichever is greater;

26.6.7h Indoor jogging or running tracks - 1 space for each one hundred (100) linear feet;

26.6.7i All areas for subsidiary uses not listed above or in other parts of Section 25:6 (those uses such as restaurants, offices, etc., shall be calculated with the minimum specified for those individual uses) - 1 space for each one thousand (1,000) square feet.

26.6.7j Other - 1 space for each three (3) persons accommodated (design capacity).

26.6.8 Dance hall, assembly or exhibition hall (without fixed seats):  
One (1) parking space for each one hundred (100) square feet of floor area used thereof.

26.6.9 Day nursery, day care, kindergarten school:

connection therewith, but not less than one (1) parking space for each 1,000 square feet of floor area, whichever is greater.

- 26.6.22 Massage establishment:  
One (1) space for each two hundred (200) square feet of floor area.
- 26.6.23 Mini-warehouse:  
Four (4) spaces per complex plus one (1) space per five thousand (5,000) square feet of storage area.
- 26.6.24 Mortuary or funeral home:  
One (1) parking space for each fifty (50) square feet of floor space in slumber rooms, parlors, or individual funeral service rooms.
- 26.6.25 Motor vehicle salesrooms and used car lots:  
One (1) parking space for each five hundred (500) square feet of sales floor for indoor uses, or one (1) parking space for each one thousand (1,000) square feet of lot area for outdoor uses.
- 26.6.26 Office, general:  
One (1) space for each three hundred (300) square feet of total floor area.
- 26.6.27 Office, medical:  
One (1) space for each one hundred seventy-five (175) square feet of floor area.
- 26.6.28 Office-showroom or office - warehouse:  
One (1) space for each one thousand (1,000) square feet of floor area for storage and warehousing, plus one (1) space for each one hundred (100) square feet of office, sales or display area.
- 26.6.29 Private club:  
If free standing or located in a shopping center of 150,000 square feet or less, one (1) space for each ten (10) square feet of bar, lounge and waiting areas, plus one (1) space for each one hundred (100) square feet of remaining floor area.
- 26.6.29b If located in a shopping center of greater than 150,000 square feet, one (1) space for each one hundred (100) square feet of gross floor area.
- 26.6.30 Private country club or golf club:  
One (1) parking space for each two hundred fifty (250) square feet of floor area or for every five (5) members, whichever is greater.
- 26.6.31 Recreational area or building (other than listed):  
One (1) space for each two (2) persons to be normally

*avg space 8.5' x 18'*  
*compact space - 7.5'*

accommodated in the establishment.

- 26.6.32 Restaurant, cafeteria, cafe or similar establishment:  
One (1) parking space for every one hundred (100) square feet of floor area.
- 26.6.33 Retail store or personal service establishment, except as otherwise specified herein:  
One (1) parking space for each two hundred (200) square feet of *sales* floor area.
- 26.6.34 Sanitarium, convalescent home, home for the aged or similar institutions:  
One (1) parking space for each six (6) beds.
- 26.6.35 School, elementary and middle:  
One (1) parking space for each five (5) seats in the auditorium or main assembly room, or one (1) space for each classroom plus ten (10) spaces, whichever is greater.
- 26.6.36 School, secondary (grades 9 - 12):  
One (1) parking space for each four (4) seats in the main auditorium, or one (1) space for each classroom plus one (1) space for each two (2) students accommodated in the institution, whichever is greater.
- 26.6.37 Shopping center:  
One (1) space for each two hundred (200) square feet of floor area. The total floor area used for restaurants and cafeterias (but not including private clubs) which exceeds ten percent (10%) of the shopping center floor area, shall require additional parking to be provided in accordance with the requirements for restaurants.
- 26.6.37 Storage or warehousing:  
One (1) space for each two (2) employees, or one (1) space for each one thousand (1,000) square feet of total floor area, whichever is greater.
- 26.6.38 Theater, auditorium (except school), meeting room, sports arena, stadium, gymnasium, or other places of public assembly:  
One (1) parking space for each four (4) seats or bench seating spaces.
- 26.6.39 Vehicle repair garage:  
Three (3) spaces per service bay, plus one (1) space per employee (maximum shift), plus one (1) space per tow truck or other service

vehicle.

26.7 Off-Street Parking Requirements for Uses Not Listed

For those uses which are not matched with a parking requirement in 26.6, the following standards shall apply:

<u>General Use Category</u>	<u>Parking Space Requirements</u>
a. Educational & Institutional	One space per employee
b. Transportation, Utility & Communications Uses	One space per employee plus one space per stored vehicle
c. Accessory & Incidental Uses	One space per employee
d. Office & Professional Uses	One space per 300 square feet of gross floor area
e. Automobile & Related Uses	One space per employee plus one space per stored vehicle
f. Retail Uses	One space per 200 square feet of gross floor area
g. Service Uses	One space per 200 square feet of gross floor area
h. Wholesale Uses	Same as for "Storage or warehousing"
i. Contract Construction Uses	One space per employee
j. Commercial, Manufacturing, & Industrial Uses	Same as for "Manufacturing, processing, or repairing"

26.8 Rules for Computing Number of Parking Spaces

In computing the number of parking spaces required for each of the uses in Sections 26.1 - 26.7), the following rules shall govern:

26.8.1 "Floor Area" shall mean the gross floor area of the specific use.

26.8.2 Where fractional spaces result, the parking spaces required shall be rounded to the nearest whole number.

- 26.8.3 The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.
- 26.8.4 In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

## 26.9 Location of Parking Spaces

All parking spaces required herein shall be located on the same lot with the building or use served, except as follows:

- 26.9.1 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 (2) or more buildings or establishments, the required spaces may be located not more than three hundred (300) feet from an institutional building served and not more than three hundred (300) feet from any other non-residential building served.
- 26.9.2 Not more than fifty percent (50%) of the parking spaces required for theaters, bowling alleys, cafes, or similar uses and not more than eighty percent (80%) of the parking spaces required for a church or school auditorium or similar uses may be provided and used jointly by similar uses not normally open, used or operated during the same hours as those listed; provided, however, that written agreement thereto is properly executed and filed as specified below.
- 26.9.3 In any case where the required parking spaces are not located on the same lot 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 such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the city and executed by the parties concerned, and shall be filed with the application for a building permit.

## 26.10 Use of Parking Spaces - All Districts

Required off-street parking and loading spaces shall be used only for these respective purposes and shall not be used for storage or display of boats, trailers, campers, motor vehicles or other goods, materials, products for sale.

## 26.11 Special Off-Street Parking Regulations

In computing the parking requirements for any development, the total

parking requirements shall be the sum of the specific parking space requirements for each use included in the development. Where multiple uses are proposed for a building, the parking requirements shall be calculated on the basis of the most restrictive requirements unless specific areas of different uses are delineated by floor or building segment.

- 26.11.2 Wherever a parking lot is located across the street from or adjacent or residentially zoned property, and is designed so that headlight beams will shine into residences (whether or not such residences have been built at the time the parking lot is constructed), and irrigated earthen berm or a solid masonry wall or reinforced concrete fence of not less than three (3) nor more than four (4) feet in height above the finished grade of the off-street parking area shall be erected and maintained so as to provide a headlight screen for the residential district.
- 26.11.3 The off-street parking spaces designated for each apartment (multifamily) dwelling unit shall be located within one hundred (100) feet of the dwelling unit served by such spaces.
- 26.11.4 In all residential district, no heavy load vehicle, truck trailer, truck tractor, mobile home, motor home, camper, trailer, boat, machinery, farm equipment or machinery or any other similar equipment or machinery (called collectively "equipment") shall be parked or left standing for more than two (2) days out of any consecutive seven (7) day period within the required front yard or within the side yard of a corner lot between the side building line and side property line on the side of the lot abutting a street or public right-of-way.

In no event shall equipment, including motor vehicles, trucks, and vans be parked or left standing at any time on a surface other than a paved or gravel driveway or paved parking lot. The driveway shall be located either:

- 1) between the street or alley on the one hand, and on the other a garage or carport;
- 2) in the side yard adjacent to the mail building; or
- 3) as a circular driveway serving the main entrance of the premises;

The driveway shall be no wider than the width of the garage, carport (or 20 feet whichever is greater) or parking space which it serves. No more than fifty percent (50%) of the front yard shall be a driveway. In no event shall vehicles or equipment be parked or left standing closer than five (5) feet from the front property line.

- 26.11.5 Parking spaces in non-residential districts shall be provided with sufficient space for entering and exiting without backing onto a public street. Parking spaces on the perimeter of the parking lot and abutting a property line shall have a wheel stop barrier two (2) feet from the end of the parking space.

## 26.12 Design Standards For Parking Structures

- 26.12.1 In all districts, above grade parking structures shall conform to height restrictions for zoning districts in which they are located.
- 26.12.2 The distance from parking structure entry and exit points to a corner of a street intersection shall conform to standards contained in the Subdivision Ordinance.
- 26.12.3 Ramps shall not be constructed with slopes exceeding fifteen percent (15%) and single lane entrances shall not be less than twelve (12) feet wide at the street.
- 26.12.4 A minimum of one (1) car length shall be provided between an exit control gate and the inside edge of a sidewalk to minimize conflicts between exiting cars and pedestrians.
- 26.12.5 Parking structure facades shall be left fifty percent (50%) open and interior light levels shall be maintained at ten (10) foot candles to enhance security and safety. All parking structure lighting shall be designed so as not to reflect or shine on adjacent properties.
- 26.12.6 Full enclosure of any level of a parking structure may be permitted only if such structure is fully sprinklered and mechanically ventilated.

## 26.13 Off-Street Loading

- 26.13.1 All retail, commercial, and industrial structures shall provide and maintain off-street facilities for the loading and unloading of merchandise and goods within the building or on the lot adjacent to a private service drive.

At least one-half of such loading spaces shall have a minimum dimension of ten (10) feet by forty (40) feet, and the remaining spaces shall have a minimum dimension of ten (10) feet by twenty (20) feet.

Where such loading spaces is located adjacent to a residential district, the space shall be enclosed on three (3) sides.

Loading spaces shall be provided in accordance with the following schedule:

**FOR ALL RETAIL, COMMERCIAL AND INDUSTRIAL USES**

Square Feet of Gross Floor Area in Structure	Minimum Required Spaces or Berths
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
100,000 to 200,000	3
Each additional 100,000	1 additional

**FOR ALL HOTELS, OFFICE BUILDINGS, RESTAURANTS, SIMILAR ESTABLISHMENT**

Square Feet of Gross Floor Area in Structure	Minimum Required Spaces or Berths
0 to 50,000	None
50,000 to 150,000	1
150,000 to 300,000	2
300,000 to 500,000	3
500,000 to 1,000,000	4
Each additional 500,000	1 additional

26.13.2 Kindergartens, day schools, and similar child training and care establishments shall provide loading and unloading space on a private drive, off-street, to accommodate one (1) motor vehicle for each ten (10) students or children cared for by the establishment.

26.13.3 Loading docks for any establishment which customarily receives goods between the hours of 9:00 p.m. and 8:00 a.m., and is adjacent to a residential use or district, shall be designed and constructed so as to fully enclose the loading operation in order to reduce the effects of the noise of the operation on adjacent residences.

26.13.4 Where adjacent to residential uses or district, off-street loading areas shall be screened from view of the residential use or district.

**26.14 Stacking Requirements for Drive-Through Facilities**

26.14.1 A stacking space shall be an area on a site measuring eight (8) feet by twenty (20) feet with direct forward access to a service window or station of a drive-through facility which does not constitute space for any other circulation driveway, parking space, or maneuvering

area.

- 26.14.2 For financial institutions with drive-through facilities, each teller window or station, human or mechanical, shall be provided with a minimum of five (5) stacking spaces (from the right-of-way line).
- 26.14.3 For each service window of a drive-through restaurant, a minimum of seven (7) stacking spaces (from the right-of-way line) shall be provided.
- 26.14.4 For kiosks, a minimum of two (2) stacking spaces (from the right-of-way) for each service window shall be provided.

## **SECTION 27**      **ACCESSORY BUILDING REGULATIONS**

### 27.1 Height

No accessory building shall exceed twenty-five (25) feet in height, nor shall it be greater in height than the main structure.

### 27.2 Area Regulations for Accessory Buildings or Structures in Residential and Apartment Districts

- 27.2.1      Front Yard: Attached accessory buildings, including garages and carports, shall have a front yard not less than the main building, or as specified in the particular district. Detached accessory buildings shall be located in the area defined as the side yard or rear yard.
- 27.2.2      Side Yard: There shall be a side yard not less than eight (8) feet from any side lot line, alley line, or easement line, except that adjacent to a side street, the side yard shall never be less than twenty (20) feet.
- 27.2.3      Rear Yard: There shall be a rear yard not less than ten (10) feet from any lot line, alley line, or easement line. Carports, garages, or other accessory buildings located within the rear portion of a lot (outside the required rear yard), as described in Section 26.2.3, shall not be located closer than fifteen (15) feet to the main building nor nearer than eight (8) feet to any side lot line.

## **SECTION 28**      **PLATTING PROPERTY IS PERMANENTLY ZONED**

### 28.1 Zoning Required Prior to Approval of Plat

The City Council shall not approve any plat of any subdivision within the city limits until the area covered by the proposed plat shall have been permanently zoned by the City Council.

## 28.2 Annexation Prior to Approval of Plat

The City Council shall not approve any plat or any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the city is pending before the City Council unless and until such annexation shall have been approved by ordinance by the City Council.

## 28.3 Contemporaneous Action on Zoning and Annexation

In the event the City Council holds a hearing on proposed annexation, it may, at its discretion, hold a contemporaneous hearing upon the permanent zoning that is to be applied to the area or tract to be annexed. The City Council may, at its discretion, act contemporaneously on the matters of permanent zoning and annexation.

# SECTION 29      CLASSIFICATION OF NEW AND UNLISTED USES

## 29.1 Procedure For Classifying New/Unlisted Uses

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

29.1.1      The Zoning Administrator shall refer the question concerning any new or unlisted use to the Planning and Zoning Commission requesting a recommendation to the City Council as to the zoning classification(s) 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. The Planning and Zoning Commission shall make a recommendation to the City Council regarding the zoning districts within which such use should be permitted.

29.1.2      The Planning and Zoning Commission and the City Council shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts, in determining the zoning district or districts within which such use should be permitted.

29.1.3      The City Council shall by ordinance approve or make such determination concerning the classification of such use as is determined appropriate, based upon its findings.

## **SECTION 30**      **CREATION OF BUILDING SITE**

### **30.1 Procedure for Creating Building Site/Lot**

No permit for the construction of a building or buildings upon any tract or plot shall be issued until a building site, building tract, or building lot has been created by compliance with one of the following conditions:

- 30.1.1      The lot or tract is part of a plat of record, properly approved by the City Council and signed by the Mayor, and filed in the plat records of the county and counties in which the lot or tract is located.
- 30.1.2      The plot, tract or lot faces upon a dedicated street and was separately owned prior to the effective date of this ordinance or prior to annexation to the City, whichever is applicable, in which event a building permit for only one main building conforming to all the requirements of this ordinance may be issued on each such original separately owned parcel.
- 30.1.3      The plot or tract is all or part of a site plan officially approved by the City Council and compliance has been made with provisions and improvements approved on such site plan for all utility and drainage easements, dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land. Any and all plots, tracts, or lots must be provided access via a public street or drive.

## **SECTION 31**      **NON-CONFORMING USES AND STRUCTURES**

### **31.1 Uses in Existence at Time of Adoption of Ordinance**

A non-conforming status shall exist when a use or structure which does not conform to the regulations prescribed in the district in which such use or structure is located was in existence and lawfully operating prior to the adoption of the Zoning Ordinance.

### **31.2 Expansion of Non-Conforming Use Prohibited**

No non-conforming use or structure may be expanded or increased beyond the lot or tract upon which such non-conforming use is located as of the effective date of this ordinance except to provide off-street loading or off-street parking space upon approval of the City Council.

### **31.3 Repairs/Normal Maintenance on Non-Conforming Uses Permitted**

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

#### 31.4 Change of Non-Conforming to Conforming Use

Any non-conforming use may be changed to a conforming use and once such change is made, the use shall not thereafter be changed back to a non-conforming use.

#### 31.5 Abandonment/Discontinuation of Non-Conforming Use

Whenever a non-conforming use is abandoned, all non-conforming rights shall cease and the use of the premises shall thenceforth be in conformity with this ordinance. Abandonment shall involve the intent of the user or owner to discontinue a non-conforming operation and the actual act of discontinuance. Discontinuance of a business or the vacancy of a building or premises occupied by a non-conforming use for a period of six (6) months shall be construed as conclusive proof of intent to abandon the non-conforming use. Any non-conforming use not involving a permanent type of structure which is moved from the premises shall be considered to have been abandoned.

#### 31.6 Accidental Destruction of Non-Conforming Use

If a non-conforming structure or a structure occupied by a non-conforming use is destroyed by fire, act of God or other cause, it may not be rebuilt except to the provisions of this ordinance. In the case of partial destruction of a non-conforming use not exceeding sixty percent (60%) of its reasonable value, reconstruction may be permitted after a hearing and favorable action by the City Council, but the size and function of the non-conforming use shall not be expanded.

#### 31.7 Replacement of Non-Conforming HUD-Code Manufactured Home

Notwithstanding any of the provisions of this section, a non-conforming HUD-Code manufactured home may be exchanged or replaced by another HUD-Code manufactured home, provided the newly located residential unit is owner-occupied.

### **SECTION 32            PLANNING AND ZONING COMMISSION**

#### 32.1 Organization and Appointment

There is hereby created a Planning and Zoning Commission which shall be organized, appointed by the Mayor and confirmed by the City Council and function as follows:

32.1.1            Membership: The Planning and Zoning Commission shall consist

of five (5) members who are residents of the City of Kerens or its extraterritorial jurisdiction, however the majority shall be residents of the City of Kerens, each to serve for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Appointees shall fill positions which shall be designated by place numbers (e.g., place 1, place 2, etc.). Vacancies shall be filled for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made. The Mayor and City Council may appoint two (2) alternate members of the Planning and Zoning Commission, one from the City of Kerens and one from the extraterritorial jurisdiction, who shall serve in the absence of one or more of the regular members when requested to do so by the chairman of the Planning and Zoning Commission.

32.1.2 Terms: The terms of members filling places 1, 3, and 5 shall expire on June 30 of each odd-numbered year and the terms of members filling places 2 and 4 shall expire on June 30 of each even-numbered year. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no members shall be appointed for a term in excess of two (2) years. Newly-appointed members shall be installed at the first regular commission meeting after their appointment.

32.1.3 Organization: The commission shall hold an organizational meeting in July of each year. The commission shall meet on-call and shall designate the time and place of its meetings. The commission shall adopt its own rules of procedure and keep a record of its proceedings consistent when the provisions of this ordinance and the requirements of law. The Planning and Zoning Commission shall elect a chairman from its own membership at its annual organizational meeting.

32.1.4 Quorum and Compensation: A quorum for the conduct of business shall consist of three members and/or alternate members of commission. The members shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.

## 32.2 Duties and Authority

The Planning and Zoning Commission is hereby charged with the duty and invested with the authority to:

32.2.1 Formulate and recommend to the City Council for its adoption a city plan for the orderly growth and development of the city and its environs and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods,

and the health, recreation, safety, and general welfare of the citizens of the city.

- 32.2.2 Formulate a zoning plan as may be deemed best to carry out the goals of the city plan; hold public hearings and make recommendations to the City Council relating to the creation, amendment, and implementation of zoning regulations and districts as authorized under state law.
- 32.2.3 Exercise all powers of a commission as to approval or disapproval of plans, plats, or replats as authorized under state law.
- 32.2.4 Study and recommend the location, extension, and planning of public rights-of-way, parks, or other public places, and on the vacating or closing of same.
- 32.2.5 Study and make recommendations regarding the general design and location of public buildings, bridges, viaducts, street fixtures, and other structures and appurtenances.
- 32.2.6 Initiate, in the name of the city, proposals for the opening, vacating, or closing of public rights-of-way, parks, or other public places and for the change of zoning district boundaries on the area-wide basis.
- 32.2.7 Formulate and recommend to the City Council for its adoption policies and regulations consistent with the adopted city plan governing the location and/or operation of utilities, public facilities, and services owned or under the control of the city.
- 32.2.8 Submit each May a progress report to the City Council summarizing its activities for the past year and a proposed work program for the coming year.

## **SECTION 33      ZONING BOARD OF ADJUSTMENT**

### **33.1    Creation, Membership and Procedures:**

- 33.1.1      **Zoning Board of Adjustment Established:** A Zoning Board of Adjustment is hereby reestablished in accordance with the provisions of Texas Local Government Code, § 211.008, as amended, regarding the zoning of cities and with the powers and duties as provided in said Code.
- 33.1.2      **Membership:** The Zoning Board of Adjustment shall consist of five (5) members, each to be appointed by the Mayor and confirmed by the City Council for a term of two (2) years and removable for cause by the appointment authority upon written charges and after

public hearing. Vacancies shall be filled for the unexpired term of any member, whose place becomes vacant for any cause, in the same manner as the original appointment was made. Three (3) members shall serve until January 1 of odd-numbered years, as heretofore appointed, and two (2) members, as heretofore appointed, shall serve until January 1 of even-numbered years, and thereafter each member reappointed for each new appointee shall serve for a full term of two (2) years unless removed as hereinabove provided. The City Council may also appoint four (4) alternate members of the board who shall serve in the absence of one or more of the regular members when requested to do so by the chairman of the Board, so that all cases to be heard by the Board will always be heard by a minimum number of four (4) members. These alternate members, when appointed, shall serve for the same period as the regular members, which is for a term of two (2) years, and any vacancy shall be filled in the same manner and they shall be subject to removal by the same means and under the same procedures as the regular members.

- 33.1.3 Hearings: The hearings of the Board shall be public. The Board shall hear the intervention of any owner of property adjacent to, in the rear of, or across the street from a lot as to which the granting of any permit is pending, and shall also hear any other parties in interest. All hearings are to be heard by at least four (4) members of the Board.
- 33.1.4 Meetings: Regular meetings of the Board shall be held at such times as the Board may determine. Special meetings of the Board shall be held at the call of the chairman or at the written request of two regular members of the Board, or city staff, and said request to be submitted to the Chairman.
- 33.1.5 Rules and Regulations: The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such vote, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Secretary and shall be public record. The Board shall act by resolution in which four (4) members must occur. The Board shall adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of the ordinance, and shall furnish a copy of the same to the Zoning Administrator and the Building Inspector, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

## 33.2 Powers and Duties of Board

- 33.2.1 Appeals Based on Error: The Board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official of the city of the enforcement of this ordinance.
- 33.2.2 Special Exceptions: The Board shall have the power to hear and decide special exceptions to the terms of this ordinance upon which the Board is required to pass as follows:
- 33.2.2.1 Permit the erection and use a building or the use of premises for railroads if such uses are in general conformity with the Master Plan and present no conflict or nuisance to adjacent properties.
  - 33.2.2.2 Permit a public utility or public service or structure in any district , or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
  - 33.2.2.3 Grant a permit for the extension of a use, height, or area regulation into an adjoining district where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.
  - 33.2.2.4 Permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty percent (50%) of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use and primary purpose of continuing the nonconforming use is not to continue a monopoly.
  - 33.2.2.5 Waive or reduce the parking and loading requirements of any of the districts, whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
  - 33.2.2.6 Determine whether an industry should be permitted within the M-1 -- Light Industrial District and M-2 -- Heavy Industrial District because the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.

33.2.27 Rule on all applications on siting of manufactured homes in districts not so zoned. Approval shall only be allowed in cases of extreme hardship under guidelines established by the Board.

33.2.3 Limitation on Reapplications: When the Board has denied a proposal, no new applications of similar nature shall be accepted by the Board or scheduled for twelve (12) months after the date of Board denial. Applications which have been withdrawn at or before the Board meeting may be resubmitted at any time for hearing before the Board.

33.2.4 Vote of Four Members Required: The concurring vote of four members of the Board is necessary to:

- (a) reverse an order, requirement, decision or determination of an administrative official;
- (b) decide in favor of an applicant on a matter on which the Board is required to pass; or
- (c) authorize a variation from the terms of a zoning ordinance.

### 33.3 Appeals

33.3.1 Procedure: Appeals may be taken to and before the Zoning Board of Adjustment by any person aggrieved, or by any officer, department, board or bureau in the city. Such appeal shall be made by filing in the office of the City Secretary a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record from which the action appealed was taken.

33.3.2 Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector shall certify to the Zoning Board of Adjustment that, by reason of facts in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted or by a court of equity, after notice to the office from whom the appeal was taken.

33.3.3 Notice of Hearing on Appeal: The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation is desired, and to all other

persons deemed by the Board to be affected thereby, such owners and persons being determined according to the current tax rolls of the City. Depositing of such written notice in the mail shall be deemed sufficient compliance therewith.

- 33.3.4 Decision by Board: The Board shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The Board may reverse or affirm wholly or partly or may modify the order, requirements, decision, or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer or department from whom the appeal is taken.

#### 33.4 Variances

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

- 33.4.1 Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of the provisions due to an irregular shape of the lot or topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.
- 33.4.2 Authorize, upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alteration of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variances from the strict application of the terms of this ordinance as are in harmony with its own general purpose and intent, but only when the Board is satisfied that granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the Comprehensive Plan as established by this ordinance and at the same time, the surrounding property will be properly protected.
- 33.4.3 The Board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirements, decision or determination made by the Building Inspector in the enforcement of this ordinance. Except as otherwise provided herein, the Board shall have, in addition, the following specific powers:

- 33.4.3.1 To permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with the Master Plan and present no conflict or nuisance to adjacent properties.
- 33.4.3.2 To permit a public utility or public service or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.
- 33.4.3.3 To grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of this ordinance.
- 33.4.3.4 To permit the reconstruction of a non-conforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty percent (50%) of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use.
- 33.4.3.5 To waive or reduce the parking and loading requirements in any of the districts, when (i) the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities; or (ii) when such regulations would impose an unreasonable hardship upon the use of the lot. The Board shall not waive or reduce such requirements merely for the purpose of granting an advantage or a convenience.
- 33.4.4 A written application for variance shall be submitted together with the required fee, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, demonstrating:
- a) that special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;
  - b) that literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

- c) that the special conditions and circumstances do not result from the actions of the applicant;
- d) that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district; and
- e) no non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

### 33.5 Changes

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

It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the administrative official, that such questions shall be presented to the Board only on appeal from the decision of the Building Official and that recourse from the decisions of the Zoning Board of Adjustment shall be to the courts as provided by the laws of the State of Texas.

## **SECTION 34**                      **RULES OF CONSTRUCTION AND SPECIAL DEFINITIONS**

### 34.1 General Rules of Construction:

The following rules of construction shall apply to the interpretation of words used in this ordinance:

- 34.1.1 words used in the present tense include the future tense;
- 34.1.2 words used in the singular number include the plural number;
- 34.1.3 words in the plural number include the singular number;
- 34.1.4 the words "building" and "structure" are synonymous;
- 34.1.5 the words "lot", "plot" and "tract" are synonymous; and
- 34.1.6 the word "shall" is mandatory and not discretionary.

### 34.2 Special Definitions

Except to the extent a particular provision specifies otherwise, the following definitions shall apply throughout this ordinance:

- 34.2.1 Abutting Property - Property abutting upon a street shall also be understood as abutting property on the other side of the street.
- 34.2.2 Accessory Use or Building - A use or building subordinate to and detached from the main building and used for purposes customarily incidental to the primary use of the premises.
- 34.2.3 Adjacent - Shall mean "next to" or "closest to" but shall not necessarily mean "touching".
- 34.2.4 Alley - A public space or thoroughfare which affords only secondary means of access to property abutting thereon.
- 34.2.5 Antenna/Microwave Reflector - An apparatus constructed of solid, mesh, or perforated materials of any configuration that is used to receive and/or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay. This definition is meant to include but is not limited to what are commonly referred to as satellites which receive only earth stations.
- 34.2.6 Antenna, Radio or Television - The arrangement of wires or metal rods used in sending and/or receiving of electromagnetic waves.
- 34.2.7 Apartment - A room or suite of rooms in a multifamily dwelling or apartment house designed or occupied as a place of residence by a single family, individual or group of individuals.
- 34.2.8 Apartment House - Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as a home or place of residence by three (3) or more families living in independent dwelling units.
- 34.2.9 Area of the Lot or Building Site - The area shall be the net area of the lot or site and shall not include portions of streets and alleys.
- 34.2.10 Basement - A building story which is partly underground, but having a least one-half of its height above the average level of the adjoining ground. A basement shall not be counted as a story in computing building height.
- 34.2.12 Block - An area enclosed by streets and occupied by or intended for buildings; where this word is used a term of measurement, it shall mean the distance along a side of a street between the nearest two (2) streets which intersect said street on said side.
- 34.2.13 Board of Adjustment - The Zoning Board of Adjustment of the City of

Kerens.

- 34.2.14 Buildable Width - The width of the building site left to be built upon after the required side yards are provided.
- 34.2.15 Building - Any structure built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.
- 34.2.16 Building, Detached - A building surrounded by yard or open space on the same building lot.
- 34.2.17 Building Ends - Those sides of a building having the least dimension as compared to the front or rear of a building. As used in the building space regulations for multiple-family dwelling, the term "building end" shall mean the narrowest side of a building regardless of whether it front upon a street, faces the rear of the lot or adjoins the side lot line or another building.
- 34.2.18 Building, Front Of - The side of a building most nearly parallel with and adjacent to the front of the lot on which it is situated.
- 34.2.19 Building Inspector - The Building Official or person charged with the enforcement of the zoning and building codes of the city.
- 34.2.20 Reserved.
- 34.2.21 Building Line - A line parallel or approximately parallel to the street line at a specified distance therefrom constituting the minimum distance from the street line that a building may be erected.
- 34.2.22 Building Lot - A single tract of land located within a single block which (at time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. Therefore, a "building lot" may not coincide with a lot of record. A "building lot" may be subsequently subdivided into two (2) or more "building lots", and a number of "building lots" may be cumulated into one "building lot", subject to the provisions of this ordinance.
- 34.2.23 Building, Main or Primary - A building in which is conducted the principal use of the lot on which it is situated.
- 34.2.24 Building Official - The Building Inspector.
- 34.2.25 Canopy - Any structure of a permanent fixed nature attached to or independent of the main structure, built and designed for the purpose of

shielding from the elements, persons or chattels or a roof-like structure of a permanent nature which is supported by or projects from the wall of a structure.

- 34.2.26 Cellar - A building story with more than one-half (1/2) its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height.
- 34.2.27 Certificate of Occupancy and Compliance - An official certificate issued by the city through the enforcing official indicating conformance with or approved conditional waiver from the zoning regulations and authorizing legal use of the premises for which it is issued.
- 34.2.28 Contiguous - Shall mean "touching" or "in contact".
- 34.2.29 Court - An open, unoccupied space, bounded on more than two (2) sides by the walls of a building. An inner court is a court entirely surrounded by the exterior walls of a building. An outer court is a court having one (1) side open to a street, alley, yard or other permanent space.
- 34.2.30 Coverage - The percent of a lot or tract covered by the roof or first floor of a building.
- 34.2.31 Depth of Lot - The mean horizontal distance between the front and rear lot lines.
- 34.2.32 Depth of Rear Yard - The mean horizontal distance between the rear line of a building other than an accessory building and the rear lot line except as modified in the text of any section in this ordinance.
- 34.2.33 District - A section of the city for which the regulations governing the area, height or use of the land and buildings are uniform.
- 34.2.34 Duplex - A building designed for occupancy by two families living independently of each other within separate units which have a common wall and are under one roof.
- 34.2.35 Dwelling Unit - A building or portion thereof designed exclusively for residential occupancy, including one (1) family, two (2) family, and multiple family dwellings, except for buildings designed and used as hotels, boarding houses, rooming houses, and motels.
- 34.2.36 Family - An individual or group of two or more persons related by blood, marriage, adoption or guardianship including foster children, exchange students, and servants together with not more than two (2) additional persons not related by blood, marriage or adoption to the previously identified individual or group, living together as a single housekeeping unit in a dwelling unit or a Family Home for the Disabled as defined by the Community Homes for Disabled Persons Location Act, Article 1011n of

V.A.C.S., as it presently exists or may be amended in the future, but not including household care or rehabilitation care facilities.

- 34.2.37 Flood Plain - An area of land subject to inundation by a 100-year frequency flood, as shown on the flood plain map of the City of Kerens. The term "flood plain" is interchangeable with the term "flood hazard area".
- 34.2.38 Floor Area - The total square feet of floor space within the outside dimensions of a building including each floor level, but excluding cellars, carports, garages or porches.
- 34.2.39 Floor Area Ratio - The ratio of total building floor area to lot area.
- 34.2.40 Reserved.
- 34.2.41 Front Yard - See Yard, front (Section 34.2.104a).
- 34.2.42 Garage Sale - The sale of items normally accumulated by a household subject to compliance with each of the following conditions:
- a) No more than four (4) garage sales shall be allowed for the same location in any twelve (12) month period. The duration of the garage sale shall not exceed three (3) consecutive days.
- 34.2.43 Gross Floor Area - The gross floor area of a building shall be measured by taking outside dimensions of the building at each floor level.
- 34.2.44 Heavy Load Vehicle (HLV) - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight (GVW) of greater than 11,000 pounds, such as large recreational vehicles, tractor-trailers, buses, vans, and other similar vehicles. The term "truck" shall be construed to mean "heavy load vehicle" unless specifically stated otherwise.
- 34.2.45 Height - The vertical distance of a building measured from the average established grade at the street line or from the average natural front yard ground level, whichever is higher, to (1) the highest point of the roof's surface if a flat surface, (2) to the deck line of mansard roofs, or (3) to the mean height level between eaves and edge for hip and gable roofs and, in any event, excluding chimneys, cooling towers, elevator bulkheads, penthouses, tanks, water towers, radio towers, ornamental cupolas, domes or spires, and parapet walls not exceeding ten (10) feet. If the street grade has not be officially established, the average front yard grade shall be used for a base level.
- 34.2.46 Industrialized Housing - A residential structure designed for use and occupancy by one (1) or more families, constructed in one (1) or more

modular components built at a location other than the permanent residential site, designed to be used as a permanent residential structure when the modules or modular components are transported to the permanent residential site and are erected or installed on a permanent foundation system. The term shall not mean or apply to (a) housing constructed of sectional or penalized systems not utilizing modular components; or (b) any ready-built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location.

- 34.2.47 Landscape Screen - Plant material of the evergreen variety, a minimum of six (6) feet in height at the time of installation and planted on four (4) foot centers. All such landscape screens shall be permanently maintained. Adequate facilities shall be provided for permanent watering at the time of installation.
- 34.2.48 Light Load Vehicles (LLV) - A self-propelled vehicle having a Manufacturer's Recommended Gross Vehicle Weight not greater than 11,000 pounds, and having no more than two (2) axles, such as pick-up trucks, vans, recreational vehicles, campers and other similar vehicles, but not including automobiles and motorcycles.
- 34.2.49 Living Unit - The room or rooms occupied by a family and which includes cooking facilities.
- 34.2.50 Reserved.
- 34.2.51 Lot - An undivided tract or parcel of land under one (1) ownership having frontage upon a public street or officially approved place, either occupied or to be occupied by a building or building group, together with accessory buildings, and used together with such yards and other open spaces as are required by this ordinance, which parcel of land is designated as a separate and distinct tract and is identified by a tract or lot number or symbol in a duly approved subdivision plat of record.
- 34.2.52 Lot, Corner - A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street forming an interior angle of less than 135 degrees. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Building Inspector.
- 34.2.53 Lot Coverage - The percentage of the total area of a lot occupied by the base (first story of floor) of a building located on the lot or the area determined as the maximum cross-sectional area of the building.
- 34.2.54 Reserved for future use.

- 34.2.55 Lot Line, Front - That boundary of a building lot which is the line of an existing or dedicated street. Upon corner lots either street line may be selected as the front lot line providing a front and rear yard are provided adjacent and opposite, respectively, to the front lot line.
- 34.2.56 Lot Line, Rear - That boundary of a building lot which is most distant from or is most nearly parallel to the front lot line.
- 34.2.57 Lot Line, Side - That boundary of a building lot which is not a front lot line or a rear lot line.
- 34.2.58 Lot Lines - The line bounding a lot as defined herein.
- 34.2.59 Lot of Record - A lot which is part of a subdivision, a plat of which has been recorded in the office of the county clerk of Navarro County; or a parcel of land the deed for which is recorded in the office of the county clerk of Navarro County prior to the adoption of this ordinance.
- 34.2.60 Reserved.
- 34.2.61 Lot or Building Site - Land occupied or to be occupied by a building and its accessory building, and including such open spaces as are required under this ordinance, and having its principal frontage upon a public street or officially approved place.
- 34.2.62 Lot Width - The width of a lot at the front building lines.
- 34.2.63 Main Building - The building or buildings on a lot which are occupied by the primary use.
- 34.2.64 Manufactured Home (HUD Code) Park - Any tract of land, under single ownership, of not less than one-half (1/2) acres and not more than ten (10) acres, approved for occupancy by manufactured housing and accessory structures related thereto and designed and operated in accordance with standards herein set forth or as set forth in any other ordinance of the City of Kerens relating to the location, use, construction, operation or maintenance of manufactured housing.
- 34.2.65 Manufactured Home (HUD Code) Subdivision - A tract of land of not less than two (2) acres to be used as a location primarily for owner-occupied HUD Code manufactured homes and which has been final platted of record in its entirety in accordance with the City of Kerens Subdivision Regulations and in accordance with the Section 25 of this ordinance.
- 34.2.66 Manufactured Modular Homes - "Modular Home" means a structure or building module as defined by statute and under the jurisdiction and control of the Texas Department of Labor and Standards, installed and used as a residence by a consumer, transportable in one (1) or more

sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include a mobile home as defined by statute; nor does it include building modules incorporating concrete or masonry as the primary structural component.

- 34.2.67 Manufacturing Processes - Uses restricted from other zoning districts but permitted in the M-1 and M-2 districts under this definition are manufacturing and industrial uses which do not emit dust, smoke, odor gas, fumes, or present a possible hazard beyond the bounding property lines of the lot or tract upon which the use or uses are located, and which do not generate noise or vibration at the boundary of the lot or tract which is generally perceptible in frequency or pressure above the ambient level of noise or vibration in the adjacent area.
- 34.2.68 Mobile Home Park - See Manufactured Home (HUD Code) Park.
- 34.2.69 Mobile Home Subdivision - See Manufactured Home (HUD Code) Subdivision.
- 34.2.70 Reserved.
- 34.2.71 Non-Conforming Building or Use - A building, structure or use of land lawfully occupied at the time of the effective date of this ordinance or amendments thereto, and which does not conform to the use regulations of the district in which it is located.
- 34.2.72 Occupancy - The use or intended use of the land or buildings by proprietors or tenants.
- 34.2.73 Off-Street Parking Incidental to Main Use - Off-street parking spaces provided in accordance with the requirements specified by this ordinance and located on the lot or tract occupied by the main use or within two hundred (200) feet of such lot or tract and located within the same zoning district as the main use or in an adjacent parking district.
- 34.2.74 Off-Street Parking Space - An area for the temporary storage of an automobile which shall be permanently reserved for such purpose and which shall not be within or on any public street, alley or other right-of-way. (See Section 26 for detailed descriptions and regulations.)
- 34.2.75 Open Space - Area included in any side, rear or front yard or any unoccupied space on the lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves, porches and plant material. Also see "Usable Open Space" (Section 34.2.101).
- 34.2.76 Open Storage - The storage of any equipment, machinery, commodities,

raw, semi-finished materials, and building materials, not accessory to a residential use, which is visible from any point on the building lot line when viewed from ground level to six (6) feet above ground level, for more than twenty-four (24) hours.

- 34.2.77 Parking Space - An all-weather surfaced area used for parking a vehicle, not on a public street or alley, together with an all-weather surfaced driveway connecting the area with a street, permitting free ingress and egress without encroachment on the street.
- 34.2.78 Planning and Zoning Commission - The duly appointed Planning and Zoning Commission of the City of Kerens.
- 34.2.79 Plat - A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the City of Kerens and subject to approval by the Planning and Zoning Commission.
- 34.2.80 Reserved.
- 34.2.81 Radio, Television and Microwave Towers - Structures supporting antenna for transmitting or receiving any portion of the radio spectrum but excluding non-commercial antenna installations for home use of radio or television.
- 34.2.82 Residence - Same as dwelling; when used with district, an area of residential regulations.
- 34.2.83 Residential District - Any zoning district included in this ordinance in which residential use constitutes the primary permitted use classification, including the SF-E, SF-1, SF-2, MF, MH-1 and MH-2 district classification.
- 34.2.84 Room - A building or portion of a building which is arranged, occupied, or intended to be occupied as living or sleeping quarters, but not including toilet or cooking facilities.
- 34.2.85 Screening Device - See "Landscape Screen".
- 34.2.86 Setback - The minimum horizontal distance between the front wall of any projection of the building, excluding steps and unenclosed porch and the side street.
- 34.2.87 Sign - An outdoor advertising device that is a structure, or that is attached to or painted on a building, or that is leaned against a structure for display on premises.
- 34.2.88 Site Plan - A detailed line drawing, to scale, showing scale used, north arrow, date and title of project, clearly describing the project and showing

the following information:

- a) Property lines, location and widths of all streets, alleys and easements.
- b) Proper dimensions on all fundamental features such as lots, buildings, parking spaces and landscaped areas.
- c) The location of setback lines, driveway openings and sidewalks.
- d) All proposed buildings, free-standing sign locations, parking areas and open spaces.
- e) All required landscaping, together with a description of type of material to be used.
- f) A cross section of any required or proposed screening.
- g) Total square footage of the development lot; total square footage of proposed structures; total footage of landscaped areas; total percentage of coverage; density of floor area ratio where applicable; height of all structures; number of parking spaces; square footage and design features of all signs; and solid waste collection facilities.
- h) Name, address and telephone number of the proponent.

34.2.89 Story - The height between the successive floors of a building from the top floor to the roof. The standard height for a story is eleven (11) feet, six (6) inches.

34.2.90 Street - Any thoroughfare or public driveway, other than an alley, more than thirty (30) feet in width, which has been dedicated or deeded to the public or public use.

34.2.91 Street Line - A dividing line between a lot, tract or parcel of land and a contiguous street; the right-of-way.

34.2.92 Street, Local or Residential - A street designed to serve properties abutting and in the immediate vicinity of the street, having a minimum right-of-way width of fifty (50) feet in single family residential districts and seventy-five (75) feet in all other districts.

34.2.93 Street, Major - A street designed to serve the entire community or substantial portions of the community, as well as traffic of non-local origin and destination, having a minimum right-of-way width of one hundred (100) feet.

- 34.2.94 Street, Secondary or Collector - A street designed to serve an area roughly one quarter (1/4) mile distant from each side of the street, having minimum right-of-way width of seventy-five (75) feet.
- 34.2.95 Structural Alterations - Any change in the supporting member of a building, such as a bearing wall, column, beams or girders.
- 34.2.96 Structure - (Same as Building.)
- 34.2.97 Swimming Pool (Private) - A swimming pool constructed for the exclusive use of the residents of a single family, two-family or apartment dwelling and located within the required side or rear yards; however, a pool shall not be located closer than eight (8) feet to any property line.
- 34.2.98 Tennis Court (Private) - A surface designed and constructed for playing the game of tennis along with all fencing, nets and related appurtenances but excluding lighting for night play in residential areas except as may be otherwise provided or restricted by the Specific Use Permit.
- 34.2.99 Thoroughfare - (Same as Street.)
- 34.2.100 Two Family Dwelling - A building designed for occupancy by two families which have a living independently of each other within separate units common wall and are under one roof.
- 34.2.101 Usable Open Space - An open area which is designed and intended to be used for outdoor living and/or recreation. An area of common usable open space shall have a slope not exceeding ten percent (10%), shall have no dimension of less than ten (10) feet, and may include landscaping, walks, water features and decorative objects. Usable open space shall not include rooftops, accessory buildings, parking areas, driveways, turn-around areas, or right-of-way or easement for streets or alleys.
- 34.2.102 Variance - An adjustment in the application of the specific regulations of the Zoning Ordinance to a particular parcel of property which, because of special conditions or circumstances peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district.
- 34.2.103 Wholesale -The sale of goods, merchandise, services and/or commodities for resale by the purchaser and does not offer retail sales to the general public.
- 34.2.104 Yard - An open space, other than a court, on the lot in which a building is situated and which is not obstructed from a point forty (40) inches above the general ground level of the graded lot to the

sky, except as provided for roof overhang and similar special architectural features and plant material.

- 34.2.104a Yard, Front - An open, unoccupied space on a lot facing a street extending across the front of a lot between the side lot lines and from the main building to the front lot or street line with the minimum horizontal distance between the street line and the main building line as specified for the district in which it is located.
- 34.2.104b Yard, Rear - An open, unoccupied space, except for accessory buildings as herein permitted extending across the rear of a lot from one (1) side lot line to the other side lot line.
- 34.2.104c Yard, Side - An open, unoccupied space or spaces on one (1) side or two (2) sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front yard to the rear yard. Any lot line not the rear line or front line shall be deemed a side line.
- 34.2.105 Zoning District Map - The official certified map upon which the boundaries of the various zoning districts are drawn.
- 34.2.106 Zoning Ordinance - This ordinance containing land use regulations for the City of Kerens.

## **SECTION 35**      **BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

### 35.1 General Requirements

No permanent structure may be constructed or otherwise located within the city limits prior to issuance of a Building Permit by the Building Inspector. No permanent structure constructed or otherwise located within the city limits may be occupied prior to issuance of a Certificate of Occupancy by the Building Inspector. No change in the existing conforming use of a permanent structure, or of land to a use of a different classification under this ordinance, and no change in the legally conforming use of a permanent structure or of land may take place prior to issuance of a Certificate of Occupancy by the Building Inspector.

### 35.2 Procedure for New or Altered Buildings

Plans for any permanent structure to be constructed or otherwise located within the city limits must be approved by the Building Inspector who, upon approval, shall issue a Building Permit. A complete application for a Building Permit shall contain details of foundation and structure sufficient to determine compliance with applicable provisions of the Building Code. Upon submission of a complete

application, the Building Inspector shall issue a Building Permit. After issuance of a Building Permit and prior to issuance of a Certificate of Occupancy, the Building Inspector shall conduct a foundation, plumbing, electrical and framing inspection. After such inspection, the Building Inspector shall issue a Certificate of Occupancy if the plans and the results of the inspection comply with the provisions of all applicable ordinances and regulations.

### 35.3 Procedure for Vacant Land or a Change in Use

Written application for a Certificate of Occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a non-conforming use, as herein provided, shall be made to said Building Inspector. If the proposed use is in conformity with the provisions of this ordinance, the Certificate of Occupancy therefor shall be issued with ten (10) days after the application for same has been made.

### 35.4 Contents of Certificate of Occupancy

Every Certificate of Occupancy shall state that the building or the proposed use of a building or land complies with all provisions of the building and fire laws and ordinances. A record of all Certificates of Occupancy shall be kept on file in the Office of the Building Inspector or his agent and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.

### 35.5 Temporary Certificate

Pending the issuance of a regular certificate, a temporary Certificate of Occupancy may be issued by the Building Inspector for a period not exceeding six (6) months during the completion of alterations or during partial occupancy of a building pending its completion. Issuance of a temporary certificate shall not be construed to alter the respective rights, duties, or obligations of the owner or of the City relating to the use occupancy of the premises or any other matter covered by this ordinance.

### 35.6 Certificates for Non-Conforming Uses

A Certificate of Occupancy shall be required for all lawful non-conforming uses of land or buildings created by adoption of this ordinance. Application for such Certificate of Occupancy for a non-conforming use shall be filed with the Building Inspector by the owner or lessee of the building or land occupied by such non-conforming use within one (1) year of the effective date of this ordinance. It shall be the duty of the Building Inspector to issue a Certificate of Occupancy for a lawful non-conforming use, but failure to apply for such Certificate of Occupancy for a non-conforming use shall be evidence that said non-conforming use was either illegal or did not lawfully exist at the effective date of this ordinance.

## AND DISTRICTS AND ADMINISTRATIVE PROCEDURES

### 36.1 Declaration of Policy

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

- 36.1.1. To correct any error in the regulations or map.
- 36.1.2. To recognize changed or changing conditions or circumstances in a particular locality.
- 36.1.3. To recognize changes in technology, style of living, or manner of doing business.

### 36.2 Authority to Amend Ordinance

The City Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided or the classification or boundaries of the zoning districts. Any amendment, supplement, or change to the text of the Zoning Ordinance and/or the zoning map any change in the classification or boundaries of the zoning districts may be ordered for consideration by the City Council, may be initiated by the Planning and Zoning Commission, the City Council, or may be requested by the owner of the affected real property or the authorized representative of an owner of affected real property.

### 36.3 Public Hearing and Notice

- 36.3.1. Upon filing of an application for an amendment to the zoning ordinance and map, the Planning and Zoning Commission and City Council shall hold a public hearing on said application.
- 36.3.2. Written notice of such hearings shall be sent to the owner of the property or his agent and to all owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice, mailed first-class return receipt requested, to be given not less than ten (10) days before the date of such hearing, to all owners who have rendered their said property for City taxes as the ownership appears on the last approved City tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the City Post Office. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the City after the final date for making the renditions which are included on the last approved City tax roll, notice to such owners shall be given by one publication in the official newspaper at least fifteen (15) days before the time of the hearing. Also, the City Secretary shall have the property, lot or tract posted with a sign at least

eighteen (18) by twenty-four (24) inches in size which shall state "Zoning change Requested for information call City Hall" and the telephone number shall be listed. Failure of owners to receive notice of hearing shall in no way affect the validity of the action taken.

#### 36.4 Action of the Planning and Zoning Commission

36.4.1 If, at the conclusion of the hearing, the Planning and Zoning Commission recommends amendment of this ordinance to the City Council, said recommendation shall be by resolution of the Planning and Zoning Commission carried by the affirmative votes of not less than a majority of its total membership present and voting. A copy of any recommended amendment shall be submitted to the City Council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.

36.3.5 The Planning and Zoning Commission may recommend denial of an application with or without prejudice against the applicant to refile the application. If the Commission recommends denial of the application and fails to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being recommended for denial without prejudice against refiling. If it is later determined by the Commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period and grant a new hearing. Newly annexed land which has been given Agricultural zoning is exempt from the one (1) year waiting period.

#### 36.5 Action of the City Council

36.5.1 If the Planning and Zoning Commission has recommended approval or denial of an application, the City Council shall set said application for public hearing and shall give notice of the time and place of the hearing by one (1) publication in the official newspaper at least fifteen (15) days prior to such hearing, and in addition shall send written notices to the owner of the property or his agent, and to all property owners of real property lying within two hundred (200) feet of the subject property pursuant to Section 36.3.2.

36.5.2 If the Planning and Zoning Commission has recommended to the City Council that a proposed amendment be disapproved, the City Council may refuse to adopt the amendment by a simple majority vote of the Councilmen present and voting. However, in order to adopt the amendment which has been recommended for disapproval by the Planning and Zoning Commission, the amendment shall not become effective except by the favorable vote of a simple majority of all members of the City Council of the City of Kerens present and voting.

36.5.3 When the Planning and Zoning Commission has recommended to the City

Council that a proposed amendment be approved, the City Council may disapprove the petition or application for amendment by a simple majority vote of the City Councilmen present and voting. In the event of a tie vote of the City Councilmen present and voting, the Mayor may cast the deciding vote.

36.5.4 In the case of a protest against an amendment to the ordinance signed by the owners of twenty percent (20%) or more either of the area of the lots or land immediately adjoining the area included in the proposed change and extending two hundred (200) feet from that area, such amendment shall not become effective except by the favorable vote of a simple majority of all members of the City Council of the City of Kerens.

36.5.5 In making its determination, the City Council shall consider the following factors:

in  
area 36.5.5.1. Whether the uses permitted by the proposed change will be appropriate the immediate area concerned and their relationship to the general and the city as a whole.

36.5.5.2 Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers and other utilities to the area and shall note the findings.

36.5.5.3 The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances which may make a substantial part of such vacant land unsuitable for development.

36.5.5.4 The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed changes.

36.5.5.5 The manner in which other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should also be modified.

36.5.5.6 Any other factors which will substantially affect the public health, safety, morals or general welfare.

36.5.6 In considering a motion to deny a zoning application, or upon voting to deny a zoning application, the City Council shall further consider whether said application shall be denied with or without prejudice against refileing. If the City Council shall deny the application and fail to clearly state the same is being denied with prejudice, then it shall be deemed that said application is being denied without prejudice against refileing. If an application is denied

with prejudice, no application may be filed for all or part of the subject tract of land for a period of one (1) year from the date of denial by the City Council. If it is determined by the Planning and Zoning Commission that there has been a sufficient change in circumstances regarding the property or in the zoning application itself, it may waive the waiting period and grant a new hearing. Newly annexed land which has been given Agricultural zoning is exempt from the one (1) year waiting period.

### 36.6 Effect of Denial of Petition

In case the application for an amendment to the Zoning Ordinance is denied by the City Council, said application shall not be eligible for reconsideration for one (1) year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the Planning and Zoning Commission, to be eligible for consideration within one (1) year of the denial of the original application.

In the event of a reapplication affecting the same land is for a zone that will permit the same use of the property as that which would have been permitted under the denied application, the same shall not be considered to be substantially different from the application denied.

### 36.7 Final approval and Ordinance Adoption

If the amending ordinance is not approved within six (6) months from the time of its original consideration, the zoning request, at the option of the City Council, may be recalled for a new public hearing.

### 36.8 Changes in Zoning Regulations

Amendments to the Zoning Ordinance not involving a particular property but involving change in the zoning regulations generally do not require notice to individual property owners. In such cases, notice of the required public hearing shall be given by publication in the official newspaper of the city, stating the time and location of the public hearing, which time shall not be earlier than fifteen (15) days from the date of such publication.

## **SECTION 37**      **SCHEDULE OF FEES, CHARGES, AND EXPENSES**

The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance. The schedule shall be posted in the office of the administration official and may be altered or amended only by the City Council.

No permits, certificates, special exception, or variance shall be issued unless and until such

costs, charges, fees, or expenses have been paid in full, nor shall any action taken on proceedings before the Board of Adjustment unless or until preliminary charges and fees have been paid in full.

The exact charge for the following services will be established by separate ordinance:

- a. For docketing a zoning petition with the Planning and Zoning Commission of the City of Kerens.
- b. For docketing an application for relief with the Board of Adjustment of the City of Kerens.

**SECTION 38**            **PENALTY FOR VIOLATIONS**

Any person or corporation violating any of the provisions of this ordinance shall upon conviction be fined a sum not to exceed two thousand dollars (\$2000.00) per day and each and every day that the provisions of this ordinance are violated shall constitute a separate and distinct offense. In addition to the said penalty provided for, the right is hereby conferred and extended upon any property owner owning property in any district where such property owner may be affected or invaded by a violation of the terms of the ordinance to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available at law and equity in the protection of the rights of such property owners.

**SECTION 39**            **VALIDITY, SEVERANCE AND CONFLICT**

If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, the same shall be severed from and shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so dedicated to be invalid or unconstitutional. To the extent any provision of this ordinance conflicts with other ordinances of the City of Kerens the terms of this ordinance shall control.

**SECTION 40**            **EFFECTIVE DATE**

This ordinance shall be effective upon the posting and/or publication of its caption as required by law and the City Secretary is hereby directed to implement such posting and/or publication.

**RECOMMENDED FOR ACCEPTANCE** by the Planning and Zoning Commission of the City of Kerens, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

ATTEST:

SIGNED:

\_\_\_\_\_  
Secretary, Planning & Zoning Commission

\_\_\_\_\_  
Chairman,

**PASSED AND APPROVED** by \_\_\_\_\_ vote of the City Council of the City of Kerens,  
Texas, on this the \_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

ATTEST:

SIGNED:

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

\_\_\_\_\_  
Mayor