

**REGULAR MEETING OF THE
PLANNING AND ZONING COMMISSION**

**TUESDAY, MAY 26, 2026, AT 5:30 P.M.
CITY HALL TOWN HALL (2nd FLOOR)
118 E. TYLER AVENUE
HARLINGEN, TEXAS 78550**

This is not a Meeting of the Harlingen Elective Commission; however, a quorum of the City Commission may be present. Other City Board members may also be present.

CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE / WELCOME

CONFLICT OF INTEREST: Under State Law a conflict of interest exists if an advisory board member or certain members of that person's family has a qualifying financial interest in an agenda item. Members with a conflict of interest cannot participate in the discussion nor vote on the agenda item. Are there any known conflicts of interest to disclose at this time?

CITIZEN COMMUNICATION: At this time, the public is invited to address the Board and speak on any matter not specifically listed for public hearing elsewhere on this agenda. Please note that the Board members may not respond to comments or deliberate on topics addressed.

APPROVAL OF MINUTES

- 1) Regular Meeting of May 12, 2026

ACTION ITEMS/PUBLIC HEARINGS

- 1) Public hearing and take action to consider a request for a Special Use Permit (SUP) to allow a food truck park in a Light Industry ("LI") District, located at 6121 FM 106, bearing a legal description of Lot 3, Block 2, Arroyo View Subdivision
Applicant: Tim Pust
 - a. Presentation by city staff
 - b. Public Hearing
 - c. Consider and take action to recommend the Special Use Permit (SUP) request to the City Commission
- 2) Public hearing and take action to consider a request to rezone from Not Designated ("N") District to Residential, Mobile Home ("MH") District for 6.143 acres of land out

of Block 18, R.A. Cunningham's Subdivision, located on the southwest corner of Primera Road and US-77 Frontage Road. Applicant: Joleigh Ares

- a. Presentation by city staff
 - b. Public Hearing
 - c. Consider and take action to recommend the rezoning request to the City Commission
- 3) Public hearing and take action to consider an ordinance of the City Commission of the City of Harlingen, Texas, amending Chapter 111, "zoning," of the Code of Ordinances of the City of Harlingen by adopting comprehensive text amendments to the city's zoning regulations, including amendments to general provisions, definitions, interpretation provisions, administrative authority, zoning procedures, zoning districts, land use regulations, certificates of occupancy, building site requirements, area and dimensional standards, height regulations, parking, loading, stacking, site development requirements, landscaping, fence and screening standards, sign regulations, accessory, portable, and storage building regulations, special use regulations, nonconforming uses and structures, special use permits, board of adjustment procedures, enforcement provisions, overlay districts, bed and breakfast establishments, illustrations, figures, diagrams, and other related development and administrative regulations; repealing conflicting ordinances and regulations; providing for severability; providing for codification; providing a savings clause; and establishing an effective date. Applicant: City of Harlingen
- a. Presentation by city staff
 - b. Public Hearing
 - c. Consider and take action to recommend the ordinance amendment to the City Commission

REPORTS/ANNOUNCEMENTS

- 1) Assistant Planning Director's Report
- a. Status report on items considered by the Planning and Zoning Commission at the May 12, 2026, meeting – Joel Olivo, Assistant Planning and Development Director.
 - i. Request to amend the previously approved Special Use Permit (SUP) to allow a Civic Lodge in a Multi-Family Residential ("M-2") District, located at 2006 Whalen Road, bearing a legal description of 2.5420 acres out of the South 5 acres and 0.62 acres out of 2.1550 acres, also out of the South 5 acres, Lot 14, Block 147, San Benito Land and Water Company Subdivision. Applicant: Narciso Villela III (Commander), c/o Veterans of Foreign Wars Post 2410.

- ii. Request for a Special Use Permit (SUP) to allow a bar in a Light Industry ("LI") District located at 1510 N. Commerce Street, Suite A, bearing a legal description of Lot 3, Block 1, Replat of Casa Blanca Subdivision.
Applicant: Tomas Diaz

ADJOURNMENT

The City of Harlingen Planning and Zoning Commission reserves the right to convene into Executive Session at any time during the meeting regarding any agenda item in compliance with the Texas Open Meetings Act, Chapter 551 Government Code.

POSTED the 20th day of May 2026, at 4:00 p.m. and remain posted continuously for at least 72 hours preceding the scheduled time of said meeting.



Ana Hernandez, AICP, CNU-A, CPM
Planning & Development Director/
Special Projects Director

PLANNING AND ZONING COMMISSION
May 12, 2026

The regular meeting of the Planning & Zoning Commission was held on Tuesday, May 12, 2026, at the City of Harlingen Town Hall, located at 118 E. Tyler Harlingen, Texas, with the following present:

COMMISSIONERS PRESENT:

Nicholas P. Consiglio	Chairman
Vanessa Cantu	Commissioner
Wandy Cruz-Velázquez, J.D., M.A.	Commissioner
Raul L. Flores	Commissioner
Dagoberto Peña	Commissioner
Carly Thomas	Commissioner

COMMISSIONERS ABSENT:

Carlos Sanchez, P.E.	Vice Chairman
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CITY STAFF PRESENT:

Ana Hernandez	Planning and Development Director
Joel Olivo	Assistant Planning and Development Director
Soledad A. Núñez	City Planner
Rodrigo Sanchez	City Planner
Sabina Ramirez	Administrative Assistant II
Nadia Lopez	Assistant City Engineer

PLEDGE OF ALLEGIANCE/WELCOME

Chairman Consiglio called the meeting to order on Tuesday, May 12, 2026, at [5:31] p.m. He led the group in reciting the Pledge of Allegiance.

The Chairman welcomed everyone again.

CONFLICT OF INTEREST

Under State Law, a conflict of interest exists if an advisory board member or certain members of that person’s family has a qualifying financial interest in an agenda item. Members with a conflict of interest cannot participate in the discussion nor vote on the agenda item.

Chairman Consiglio read the Conflict of Interest statement. He asked if there were any known conflicts of interest to disclose at this time. The members of the Board indicated there were none.

CITIZEN COMMUNICATION

Chairman Consiglio asked if anyone signed up. Staff indicated no. The Chairman acknowledged the response and proceeded to Agenda Item #1.

AGENDA ITEMS

APPROVAL OF MINUTES

1. Regular Meeting of April 28, 2026

Chairman Consiglio presented the approval of minutes. He asked if there was a motion for approval. Cmr. Peña so moved. Cmr. Cruz-Velázquez seconded the motion. The motion was moved to a vote. The motion was passed unanimously.

ACTION ITEMS/PUBLIC HEARINGS

- 1) Public hearing and take action to consider a request to amend the previously approved Special Use Permit (SUP) to allow a Civic Lodge in a Multi-Family Residential (“M-2”) District, located at 2006 Whalen Road, bearing a legal description of 2.5420 acres out of the South 5 acres and 0.62 acres out of 2.1550 acres, also out of the South 5 acres, Lot 14, Block**

147, San Benito Land and Water Company Subdivision. Applicant: Narciso Villela III (Commander), c/o Veterans of Foreign Wars Post 2410.

City Planner Soledad Núñez presented the request to amend the previously approved SUP as follows:

- The Legal Notice Map with the Subject Property highlighted that was sent out to surrounding property owners was used to present the item.
- Ms. Núñez identified that the only thing being requested is the amendment on the hours. The previous SUP was approved last April and the hours were from 12:00 p.m. (noon) to 12:00 a.m. (midnight). The request is now to go from 12:00 p.m. (noon) to 2:00 a.m. Ms. Núñez repeated that this was the only change and that everything was staying the same. She explained that because the zoning is currently Multi Family [Residential] (M 2), a Special Use Permit (SUP) is needed for their operation.
- Two (2) Site plans were presented to the Board – a current site plan and one proposed. Ms. Núñez shared that the group had their groundbreaking yesterday and that they would be getting a brand-new facility.
- An Aerial View of the Subject Property was presented.
 - Surrounding Land Uses include vacant land, single-family residences next door, vacant land all around and then Windsor Atrium and the Reata Apartments.
 - [The applicant] is proposing to operate from 12:00 p.m. (noon) to 2:00 a.m.
 - Based off the Site Plan provided, they are proposing a ten thousand, seven hundred (10,700) square-foot building.
 - Based off that square footage, they will be required [to have] one hundred and seven (107) parking spaces. They are providing one hundred and fourteen (114) parking spaces.
- The existing Site Plan was presented.
- The proposed Site Plan was presented. Ms. Núñez pointed out the building and all their parking.
- Surrounding properties are zoned Multi Family (M 2) district to the north, south, east and west and General Retail (GR) district to the northwest.
- The Fire Prevention Bureau, Building Inspections and Police Departments all reviewed this Special Use Permit request. The Fire Marshall and Police recommended approval. Building Inspections is requesting that if approved, [the applicant] turn in all the required documentation [and] construction plans to meet the requirements of the 2024 building codes.
- The Floor Plan as it is currently, was presented.
- A Street View from Wayland Road was presented. Ms. Núñez noted the temporary trailer in the back. She reported that they did have a building permit and will begin construction, probably starting to demo the building, fairly soon.
- The Future Land Use Map of the Harlingen Horizon Comprehensive Plan designates this area as medium-density residential. The [use] is necessarily in line with the Future Land Use Plan, but the VFW has been there for several years. Ms. Núñez reiterated that the use was not changing and staying the same. She said that the only thing that was changing is that they are getting an upgraded building and their hours of operation that they are [now] requesting are from 12:00 p.m. (noon) to 2:00 a.m.
- Staff is recommending approval of the Special Use Permit request subject to the applicant following the conditions listed –
 - Obtaining [and maintain] all their state and city permits,
 - Providing and maintaining the required parking,
 - Installing and maintaining video surveillance with a minimum thirty (30) day retention period,
 - Complying with all the applicable requirement requirements administered by Planning and Zoning, Building Inspections, Fire Prevention [Bureau] and Police Department, and
 - That their hours of operation be Sunday through Saturday, 12:00 PM (noon) to 2:00 AM.

Chairman Consiglio thanked Ms. Núñez for the good presentation. The Chairman indicated he would ask a question to be clear, for transparency for the public. The Chairman asked if the request to amend the previously approved SUP just had to do with the hours; if that was it. Ms. Núñez said that was correct and that it was just the hours. He confirmed that the extra information she provided was just an extra reminder. Ms. Núñez again indicated yes. The Chairman acknowledged the response and commented that the item was pretty cut and dry. He stated that [the Board] approved this last year and mentioned that [the Board] always warns everybody that applies for bars if they are sure those are the

hours they want. He said they do that a lot. The Chairman indicated that he would proceed to the Public Hearing.

The Public Hearing was opened. The Chairman asked if anyone wanting to speak on this item, either for or against, to approach the podium. Upon seeing and hearing none, the Public Hearing was closed.

The Chairman asked if there were any questions for Staff or if there was a motion.

Cmr. Cantu indicated she had a question. She said she remembered approving [the SUP] last time and that there was a family a little bit concerned, if she was not mistaken, about how close they were. She said she couldn't recall if the hours of operation was part of the reason. Ms. Núñez stated that she thought the main concern that family had was the noise and the lights. She reported that the VFW has taken that into account so the requirements in place to kind of mitigate those issues is that they have to have a six (6) foot buffer, at least around the portion abutting the home. Ms. Núñez showed the location of the home on a map. Ms. Núñez stated that Staff did send out nine (9) notices and that Staff did not receive any calls at all this time around. She indicated that she didn't know if the individual still feels the same or does not but that they hadn't called this time. Cmr. Cantu acknowledged this response.

Cmr. Cantu asked about the hours of operation. She asked if Ms. Núñez remembered if they had requested up to twelve (12:00 p.m., midnight) because of that or if that was the reason why. Cmr. Cantu said she couldn't remember the details but just remembered that they were very adamant about having it right next door and it was going to be a bar and the lights and all of that. Ms. Núñez said she didn't think so. Assistant Director, Joel Olivo, stated that he thought those were just the [normal] hours of operation. Cmr. Cantu asked if that was what it was now, up to twelve (12:00 p.m., midnight). Ms. Núñez stated that the current hours were up to twelve (12:00 p.m., midnight). Ms. Núñez continued saying that the main issue was the people being drunk and the loud noise. Administrative Assistant Sabina Ramirez added that she recalled that there was concern about the proximity to the home and about a bedroom window being right there and the noise and light coming in. She said there was also enhanced lighting to make sure the parking was safe [but that they would adjust to make sure it didn't shine directly]. Cmr. Cantu said she just wanted to make sure that [the family] was informed because extending the hours would definitely affect, especially if they were that close. Ms. Núñez reiterated that they did get a notice. She said they were sent the notice because they fell within the two hundred (200) foot buffer. Ms. Núñez also stated that they did not call the office. The Chairman indicated he had no memory of the item but indicated that the action taken was approval. He asked if that was correct. Ms. Núñez said yes. The Chairman then asked if there were any additions or additional conditions to the SUP. Ms. Núñez again said no.

Planning and Development Director Ana Hernandez added that if this becomes an issue, the new hours of operation, she said that hopefully those people will call in to report either to the Police Department or to [the Planning and Development Office]. She said the Staff could, in the future, amend the Special Use Permit or even revoke it if they needed to. She said this was an option and that this was the power of a Special Use Permit. Chairman Consiglio asked if this was the case if they made the SUP renewable. Director Hernandez said no and that this was if in the future, if there was any sort of complaints from that neighbor, that this was something Staff could do. Chairman Consiglio estimated that the hall has been there for seventy (70) years. Ms. Núñez told him yes, adding "at least".

Cmr. Peña asked if when plans come in, if it would necessarily include a look at the construction and especially anything dampening that could go into the walls. Ms. Núñez said yes and explained that they would have to comply with the 2024 building codes which is what they have right now. She said they have to comply with all the zoning ordinances as far as landscaping, buffers and anything like that. She reiterated that they do have an approved permit. She said that they are already [going to] start construction and that the only thing changing is their hours of operation. She added that through the review process, they did have to comply with all the requirements by every department. Cmr. Peña acknowledged the response.

Cmr. Thomas asked if the previous SUP that was done last year, if that was for hours of operation also. Ms. Núñez said it encompassed the hours of operation. Cmr. Thomas asked what the purpose of the SUP was before. Ms. Núñez explained that it was because of the use, because it falls within a multi-family zoning. She said the type of use requires a Special Use Permit. Chairman Consiglio questioned that all types of bars require a Special Use Permit. Ms. Núñez said that they did but said this was more of a civic lodge. Cmr. Thomas clarified her questions asking what it was last year that made them bring it up here. She asked what the reason was and what "triggered", as added by the Chairman. Ms.

Núñez said it was the use. She said it was this and that the use within the current zoning requires a Special Use Permit. She added that if they would have been in a General Retail (GR) location, this would not have been required.

Director Hernandez asked Mr. Olivo to please [help] clarify. Mr. Olivo added that the previous use [civic lodge] didn't have a Special Use Permit [since] it was considered grandfathered. He said that because they came in with a new site plan to expand, that this triggered the Special Use Permit the last time. The Board discussed that it was the construction. Cmr. Thomas indicated that she now understood.

Chairman Consiglio asked if the applicant was present. It was established that the Commander had sent representatives on his behalf due to a scheduling conflict. The Chairman asked the representative if he wanted to approach the podium. The Chairman commented that Harlingen was a community for our neighbors and citizens and that this was a neighbor there. He asked if there were any plans to enhance that buffer zone with the neighbors.

Carlos De La Rosa, Canteen Manager

Mr. De La Rosa stated that the current building is more than twenty (20) feet from that and that they were not utilizing, at this current moment, the hall. He said it is very rarely used any more. He said that before it was used quite a bit and that was a lot on that side of the building. Mr. De La Rosa said that the primary use of the hall is storage for Toys for Tots and repeated that they very rarely use the hall and that it was maybe once a month that they would use it like with the groundbreaking to let people in to eat and stuff like that. He also explained that there will be a member that has a graduation party and that it's not something where they are holding loud events like they used to. He said they had shows there and stuff like that. He said they were not doing anything like that. The Chairman asked if that was true even with the new building. Mr. De La Rosa said he hadn't seen anything but added that the new construction will have better sound control in it, adding that it will be up to date. He said that the building has been built over three times. He said it was one (1) building then another building over another building. He said the acoustics were horrible. Chairman Consiglio started to say that the concern was for the neighbors, to be good neighbors. Mr. De La Rosa said that with the new building, when they talked to [Texas] Noble [Builders], that on that side with the construction, there was to be some type of acoustic control.

Chairman Consiglio asked Mr. De La Rosa to state his name for the record. Mr. De La Rosa did. The Chairman thanked him.

Chairman Consiglio asked if there were any other questions for Staff or the applicant representative, or if there was a motion. Cmr. Cruz-Velázquez made the motion to approve. Cmr. Peña seconded the motion. The Chairman asked if there was any further discussion and upon hearing none, moved the motion to a vote. The motion passed unanimously. The Chairman joked that they would see them there at 1:30 a.m. There was laughter. Mr. De La Rosa added that it would only be a couple of days out of the week. The Chairman acknowledged the response.

2) Public hearing and take action to consider a request for a Special Use Permit (SUP) to allow a bar in a Light Industry ("LI") District located at 1510 N. Commerce Street, Suite A, bearing a legal description of Lot 3, Block 1, Replat of Casa Blanca Subdivision. Applicant: Tomas Diaz

City Planner Rodrigo Sanchez presented the request for a Special Use Permit (SUP) before the Board as follows:

- The Legal Notice Map with the Subject Property highlighted was used to present the item. Mr. Sanchez shared that in the past, this same location has been the site for a dance hall or nightclub and different types of bar lounges. The most recent was a bar by the name of Sleepwalkers but it closed on April the second of this year.
- The proposed bar will operate under the name of "First National Bar".
- Suite A consists of approximately four thousand, six hundred twenty-six (4,626) square feet.
- Other [surrounding] lands uses nearby adjacent [include], Texas Café, Anita Hair Salon, JA's Auto Repair and of course the railroads on the west and the east.
- The requirement for parking is fifty-five (55) spaces. Staff has a site plan that shows that they will be providing fifty-six parking spaces through their own parking and shared parking.
- The proposed hours of operation will be seven (7) days a week and that will be from 4:00 p.m. to 2:00 a.m.

- The applicant does intent to have live music on Friday and Saturday, and Sunday through Thursday, music will be provided by DJ.
- Surrounding zoning is Light Industry (LI) in all directions. Mr. Sanchez stated that adjacent uses were mentioned.
- The City of Harlingen Building Inspections Division, the Fire Prevention Bureau, the Health and the Police Departments all reviewed this application, and they really did not have any objections other than to say that the applicants, as they prepare this and follow the process, need to adhere to the code of ordinances and the procedures that each department will require.
- Mr. Sanchez reported that Staff has not received any phone calls with any kinds of concerns, any letters, no emails, no concerns about this business restarting again. He said that Staff did send out six (6) letters to surrounding property owners and we did not hear anything back.
- Staff is recommending approval subject to:
 - Obtaining and maintaining the proper State and City permits,
 - Providing video surveillance with a minimum 30-day retention period at minimum,
 - Complying with the requirements administered Planning and Zoning, Building Inspections, Fire and Health and of course the Police Departments, and
 - Hours of operation to be approved by ordinance will be 4:00 p.m. to 2:00 a.m., seven (7) days a week.
 - Once again, Mr. Sanchez repeated that that Staff recommends approval. He stated that the applicant was present this evening.

Chairman Consiglio thanked Mr. Sanchez. The Chairman asked if there were any questions for Staff. Upon hearing none, he proceeded to the Public Hearing.

The Public Hearing was opened. He asked anyone wanting to speak for or against this item to please approach the podium. Upon seeing and hearing none, the Public Hearing was closed.

Chairman Consiglio asked if there were any questions for Staff or the applicant or if there was a motion.

Cmr. Peña indicated that his question will always be the same in so far as security measures. He asked if they will have armed security or not. Mr. Sanchez indicated that he would defer to the applicant to speak to that.

Tomas Diaz, applicant

Mr. Diaz presented himself before the Board. He said that regarding armed security, they will have security but that he was unsure about armed [security]. He said that they have never had it before, adding that not unless the City requires it. Cmr. Peña acknowledged the response. The Board thanked the applicant. Chairman Consiglio commented that he didn't think the City does [require armed security]. Director Hernandez stated that she was not sure but that this was something that would have been brought up by Chief Alvear. She said the Police Department also gets to review the applications. Chairman Consiglio acknowledged this response.

The Chairman asked the applicant if he ran other bars in town. The applicant indicated he did and made his way up to the podium. Mr. Diaz stated the name of the bar was "La Malquerida". The Chairman asked where that one was at. Mr. Diaz said it was on Ed Carey. The Chairman acknowledged the response, stating that this would then be Mr. Diaz' second location then. Mr. Diaz acknowledged this affirmatively.

Chairman Consiglio asked if there were any other questions for the applicant and/or Staff.

Cmr. Thomas asked if it was said what the previous use of this building was or if the most recent use was also a bar. Chairman Consiglio responded affirmatively. He said it was Sleepwalkers. Cmr. Thomas was able to recall the information.

Chairman Consiglio asked if there were any other questions or if there was a motion. Cmr. Cruz-Velázquez made the motion to approve. Cmr. Peña seconded the motion. The Chairman asked if there was any further discussion and upon hearing none, moved the motion to a vote. The motion passed unanimously.

3) Assistant Planning and Development Director's report by Joel Olivo, Assistant Planning and Development Director

a. Status report on items considered by the Planning and Zoning Commission at the April 28, 2026 meeting:

- i. Request for the voluntary annexation and establishment of initial zoning of Light Industry (“LI”) District upon annexation for approximately 7.401 acres, more or less, out of Lot 5, Block 2, Harlingen Industrial Park No. 2 Subdivision, located at 109 FM 509, Cameron County, Texas, together with any adjacent county road right-of-way required to be annexed by Texas Local Government Code Section 43.106. Applicant: JMP Holdings, LLC**

Mr. Olivo stated that the item was approved on First Ordinance Reading. He said that one (1) more reading is scheduled at the next City Commission meeting.

- ii. Request for the voluntary annexation and establishment of initial zoning of Residential, Single Family (“R-1”) District upon annexation for a 1.15 acre tract of land out of Block 47, Lon C. Hill Subdivision, located on the south side of Morris Road approximately 2,630 feet east of Rangeville Road, together with a 0.16 acre tract out of Morris Road (a 60-foot right-of-way) out of Block 47, Lon C. Hill Subdivision. Applicant: Roberto Lopez**

Mr. Olivo stated that this item also got approved on First Reading.

With no other items on the agenda, the meeting was adjourned at 5:52 p.m. The Chairman announced that the next meeting will be on Tuesday, May 26, 2026, confirming that there will be a second meeting this month.

► Nicholas P. Consiglio, Chairman
Carlos A. Sanchez, P.E., Vice Chairman
Planning and Zoning Commission

AGENDA ITEM EXECUTIVE SUMMARY

Meeting Date: **May 26, 2026**

Agenda Item:

Public hearing and take action to consider a request for a Special Use Permit (SUP) to allow a food truck park in Light Industry ("LI") District, located at 6121 FM 106, bearing a legal description of Lot 3, Block 2, Arroyo View Subdivision. Applicant: Tim Pust

Prepared By: Soledad A. Núñez, CNU-A
Title: City Planner

Signature: *Soledad A. Núñez*

Brief Summary:

Project Timeline

- April 22, 2026 – Application for Special Use Permit (SUP) submitted to the City. **(ATTACHMENT I)**
- May 8, 2026 – In accordance with State and local law, notice of required public hearings mailed to all property owners within 1000 feet of subject tract.
- May 16, 2026 – In accordance with State and local law, notice of required public hearings published in the Valley Morning Star.
- May 26, 2026 - Public hearing and consideration of requested Special use permit by the Planning and Zoning Commission (P&Z).
- June 3, 2026 – Public hearing and consideration of requested SUP via 1st ordinance reading scheduled before the City Commission.
- June 17, 2026 – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary

- Pursuant to the Code of Ordinances, a Food Truck Park in a Light Industry ("LI") District requires the approval of a Special Use Permit (SUP) by the City Commission.
- Tim Puth, the applicant, is requesting a special use permit to allow a Food Truck Park with a maximum of 12 food trucks to be located at 6121 FM 106. **(ATTACHMENT II AND III).**
- There is an existing 2,400 square foot warehouse on the property with a commissary. The subject property has 250.00 feet of frontage on FM 106 and a depth of 604.81 at its longest point.
- Based on the site plan and the information submitted by the applicant, the proposed food truck park is to be located at Broosters on the northern section of the property. The proposed days and hours of operation are Sunday through Thursday from 5pm – 10pm and Friday and Saturday 3pm – 2am. A total of 286 parking spaces are required for the proposed development. Approximately 66 parking spaces are shown on the submitted site plan. The remaining 220 parking spaces required would be accommodated on the adjacent property to the east through a shared parking agreement with the property owner. The warehouse on the property houses the commercial kitchen operations for Broosters. **(ATTACHMENT III and IV).**
- Adjacent zoning is Light Industry (LI) District in all directions. The surrounding land uses consist of Trailboss Enterprises to the north, warehouses to the east and west

and to the south is vacant land in the County. (ATTACHMENTS V and VI). - The City of Harlingen Building Inspections Division, Fire Prevention Bureau, Health Department, and Police Department reviewed the Special Use Permit application. These departments reported no objection to the proposed request, subject to the applicant submitting a complete set of construction plans for review and complying with all applicable City of Harlingen codes and ordinances. (ATTACHMENTS VII-IX). - The applicant shall obtain and maintain all required State and City permits applicable to the proposed use. - At this time, the Planning and Zoning Department has not received any objections to the request from surrounding property owners. - The Future Land Use Component of the Harlingen Horizon – A City on the Rise, Comprehensive Plan, designates this area as Industrial. - In accordance with the zoning ordinance, the Planning and Zoning Commission and City Commission may impose additional requirements or conditions of approval, as deemed necessary, to ensure that the use requested through the Special Use Permit (SUP) is compatible with and complementary to adjacent properties.			
Funding (if applicable):			
Are funds specifically designated in the current budget for the full ☐ Yes ☐ No* amount for this purpose? *If no, specify source of funding and amount requested:			
Finance Director's approval:		☐ Yes	☐ No ☐ N/A
Staff Recommendation:			
Staff recommends approval of the request subject to compliance with the following conditions: 1. Obtaining and maintaining all required State and City permits; 2. Providing and maintaining the required parking in accordance with City regulations; 3. Hours of operation shall be Sunday through Thursday 5pm – 10pm and Friday and Saturday 3pm – 2am; 4. Providing video surveillance with a minimum thirty-day video retention period; and 5. Complying with all applicable requirements administered by the Planning and Zoning Division, Building Inspections Division, Fire Prevention Bureau, Health Department, and Police Department.			
City Manager's approval:		☐ Yes	☐ No ☐ N/A
Comments:			
City Attorney's approval:		☐ Yes	☐ No ☐ N/A

Attachment I – Application

CITY OF HARLINGEN PLANNING & DEVELOPMENT DEPARTMENT | PLANNING DIVISION

MASTER APPLICATION FORM

Submit applications:

In person: Planning and Development Department, 502 E. Tyler Avenue, Harlingen, Texas 78550

Email: Planning@harlingentx.gov. Questions? Call (956) 216-5101.



PROPERTY OWNER INFORMATION

Property Owner Name (If entity, attach supporting documentation): Tim Rust & ~~Martha~~ Rose

Property Owner Phone: (956) 536-9190 Property Owner Email: [REDACTED]

Property Owner Address: 6121 FM 1016 Harlingen TX 78550

APPLICANT/AUTHORIZED REPRESENTATIVE INFORMATION (If different from owner)

☒ Applicant is the same as Property Owner (skip section below)

Applicant Name: _____ Applicant Phone: _____

Applicant Email: _____

Applicant Address: _____

PROPERTY INFORMATION

Project Address: 6121 FM 1016 Harlingen TX 78550

Property/GEO ID: _____ (If unknown, look up ID at [Cameron County Appraisal District](#))

Legal Description of Property (Lot, Block, Subdivision, as shown on deed or survey): _____

Current Zoning: _____ (If unknown, check our [Interactive Zoning Map](#) or have staff verify your zoning)

Proposed Zoning: _____ (If unknown, visit or call the Planning Division staff)

Current Land Use: _____

DESCRIPTION OF REQUEST

Provide a brief description (What are you requesting? What will be built or changed? Why is this request needed?):

Food Truck Park

Select Application Type (Select all that apply):

Land Use Changes

- ☐ Rezoning Request - \$250
- ☒ Special Use Permit - \$250
- ☐ Planned Development District - \$250
- ☐ Voluntary Annexation Request/Initial Zoning - \$0
- ☐ Comprehensive Plan Amendment Request - \$250

Zoning Board of Adjustment (ZBA)

- ☐ Zoning Variance Request (ZBA) - \$250
- ☐ Zoning Special Exception (ZBA) - \$250
- ☐ Administrative Appeal (ZBA) - \$125

Subdivision/Platting:

- ☐ Preliminary Construction Plans/Final Plat - \$150
- ☐ Replat - \$250
- ☐ Vacating Plat - \$50
- ☐ Subdivision Variance - \$25 (each)

Other Requests:

- ☐ License to Encroach - \$250
- ☐ Right-of-Way/Utility Easement Abandonment - \$0

REQUIRED ATTACHMENTS

Note: Incomplete applications will not be accepted or scheduled for review.

Required for ALL Applications:

- A. Application Fee (Check or card only. No cash accepted)
- B. Valid Photo ID

Attachment I – Application

CITY OF HARLINGEN PLANNING & DEVELOPMENT DEPARTMENT | PLANNING DIVISION

- C. Warranty Deed
- D. Authorization Letter from Owner (if applicant is not the owner)
- E. Entity documents

Rezoning:

- A. Written statement describing the proposed use(s) of the subject property
- B. Survey/Survey Plat
- C. Metes & Bounds description of the tract(s) in which the rezoning is requested

Special Use Permit/PDD:

- A. Written statement describing the proposed use(s) of the subject property
- B. Site plan showing the proposed development of the property, including existing and proposed: building footprints and building heights (or buildable areas for single and two-family residential), locations of proposed uses, ingress and egress to/from property, streets in compliance with the City's Long Range Thoroughfare Plan, sidewalks, utilities, drainage, and parking spaces, etc.
- C. Any other information (elevation drawings/pictures) in support of the request

Zoning Variance Request (ZBA)/Special Exception/ Administrative Appeals:

- A. Written statement describing the requested variance and an explanation of the special conditions that result in the unnecessary hardship for which the variance or special exception is requested.
- B. Written statement describing the purpose of the request (For Administrative Appeals Only).
- C. Site Plan showing existing and proposed development of the property in question.

Preliminary Construction Plans/Final Plat/Replat:

- A. Please contact the Planning Division for the full checklist compliant with Chapter 109 - Subdivisions and the Subdivision Development Guide (SDG) referenced in Sec. 109-127(1) and Sec. 109-128(b)
- B. Plats must be submitted simultaneously to Texas Gas, AEP, AT&T, Charter Spectrum, Magic Valley Electric, Cameron County (CC) Appraisal District, CC Transportation Department, Harlingen Irrigation District, HCISD Operations, CC Drainage District, CC Irrigation District, and the U.S. Post Office.

Right-of-Way/Utility Easement Abandonment/License to Encroach:

- A. Written statement describing the purpose of the request
- B. Survey
- C. Metes & Bounds description
- D. Letter of Clearance from utility companies, including Harlingen WaterWorks System, Texas Gas, AEP, AT&T, Charter Spectrum, Magic Valley Electric, Harlingen Irrigation District, CC Drainage District, and CC Irrigation District.
- E. Appraisal Report (Appraiser must be approved by City) (For ROW abandonment only).

Voluntary Annexation:

- A. Written petition by owner(s) requesting annexation
- B. Survey
- C. Metes & Bounds description

CERTIFICATION

- ☒ I certify that I am the property owner or the duly authorized agent of the owner for the purposes of this application.
- ☒ I further certify that I have read this application and that all information provided is true, correct, and complete. I understand that any false or incorrect information may result in the revocation of any permit or approval issued by the City of Harlingen.
- ☒ I understand that meeting all application requirements does not guarantee approval, and that the City Commission is the sole authority responsible for the approval or denial of this request.
- ☒ I acknowledge that additional information may be requested by the City to process this application.

(Both signatures are required if the applicant is not the owner.)

Property Owner Name & Signature: _____

Date: 04/22/2026

Authorized Representative Name & Signature: _____

Date: 04/22/2026

OFFICE USE ONLY:

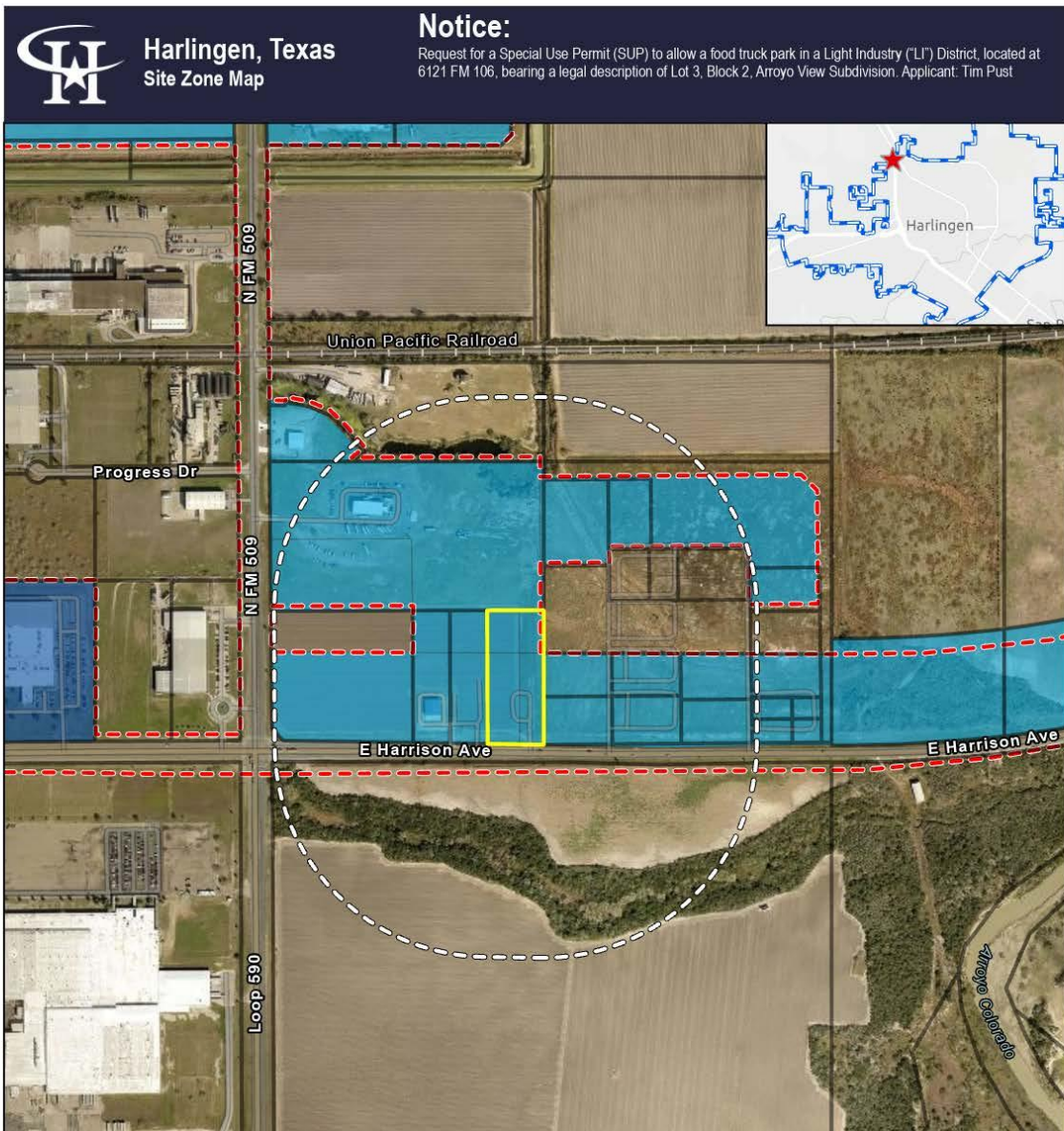
Date Submitted: 4/22/24 Date Deemed Complete: 4/28/24 Application Fee Paid: \$ 2501.50

Case #: SUP-2024-01

Receipt #: 14340

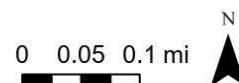
Received By (initials): [Signature]

Attachment II – Zoning Map



Legend

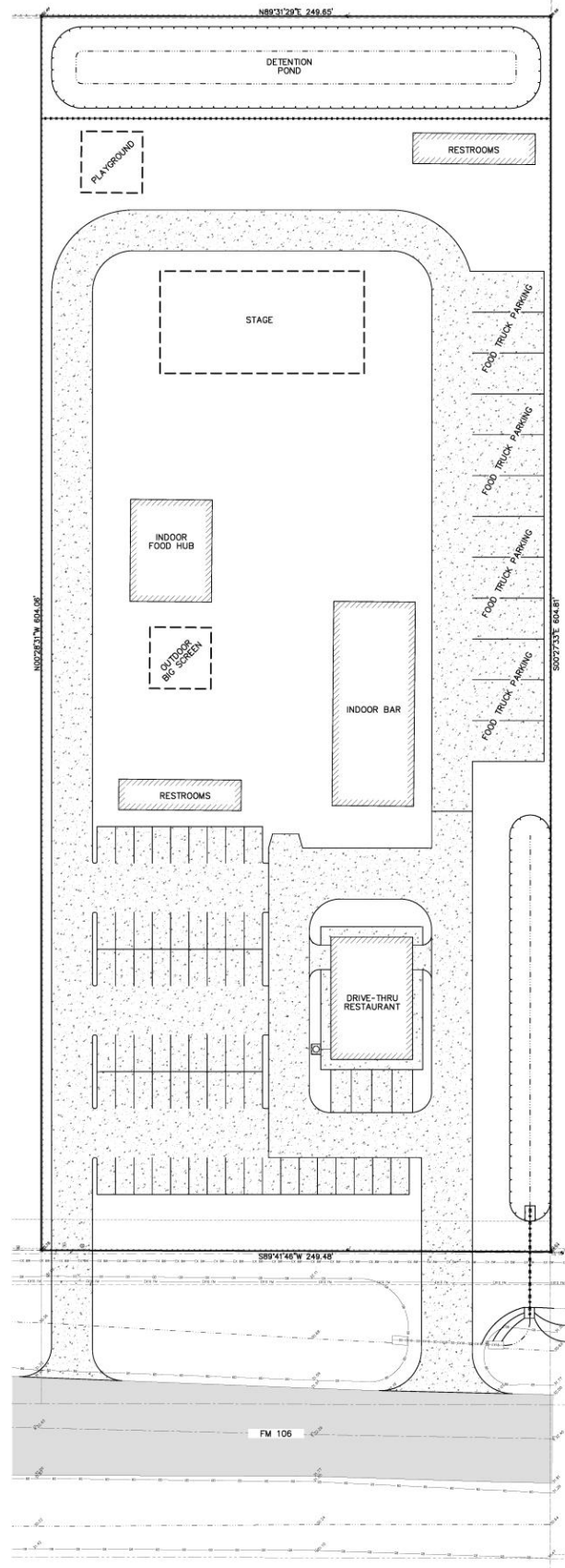
- | | | |
|--|-------------------------------|----------------|
| | Subject Property: 6121 FM 106 | Zone |
| | 1000 ft Buffer | Heavy Industry |
| | City Limits | Light Industry |
| | Property Parcels | |



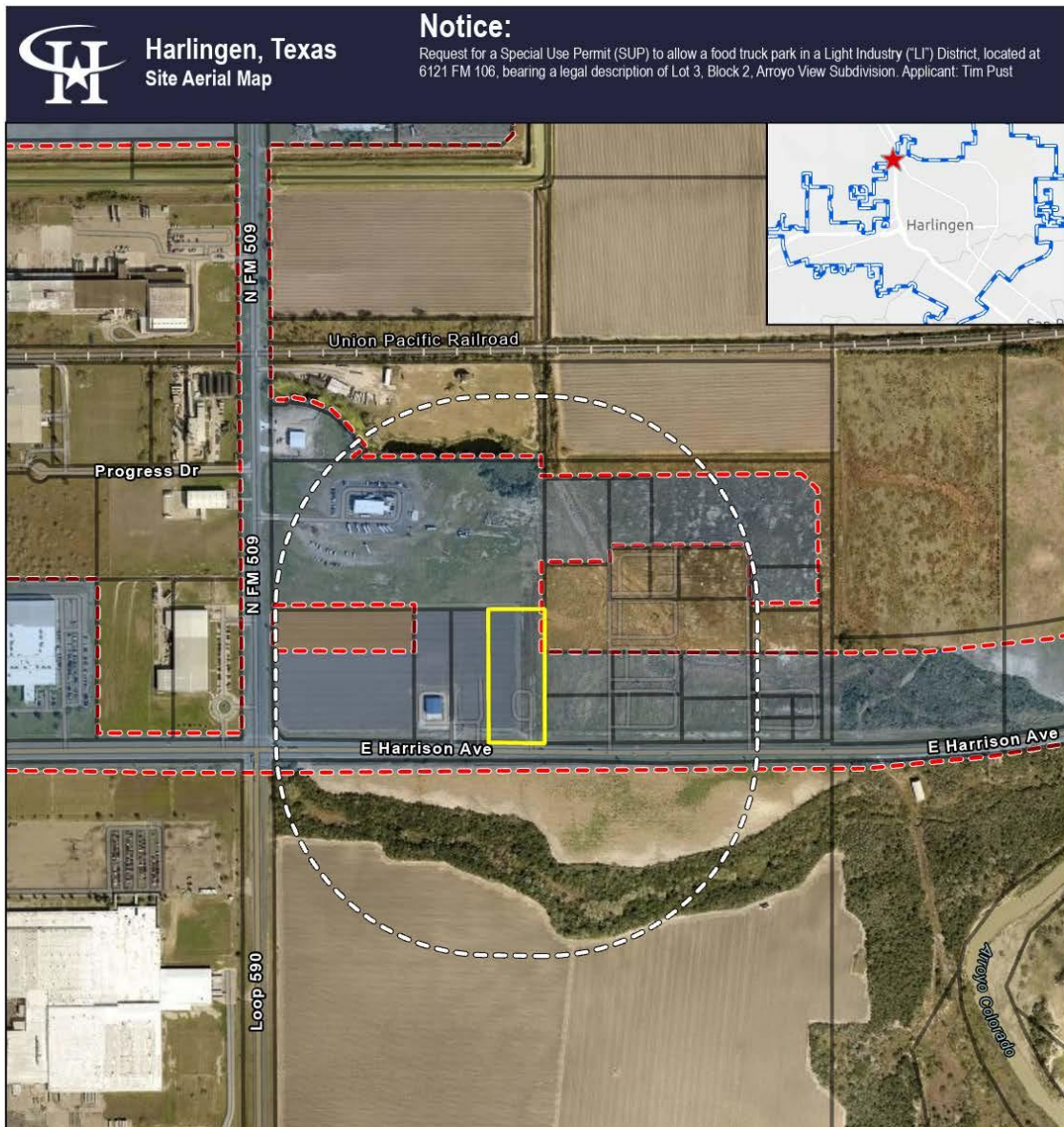
Attachment III – Street View



Attachment IV – Site Plan

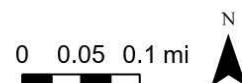


Attachment V – Aerial View



Legend

- Subject Property: 6121 FM 106
- 1000 ft Buffer
- City Limits
- Property Parcels





Specific Use Permit ("SUP") Routing Slip

Applicant: Tim Pust

Phone No.: (956) 536-9190

Location: 6121 FM 106 (Broosters)

Project Description: Request for a Special Use Permit (SUP) to allow a food truck park in a Light Industry ("LI") District, located at 6121 FM 106, bearing a legal description of Lot 3, Block 2, Arroyo View Subdivision.

Department: Building Permits and Inspections Division

Approval: ☐ YES ☐ NO ☒ PENDING

Comments: If request is approved by the Planning Department, A Building Permit application, a site plan and construction documents must be submitted to the Building Department for review. The construction documents must comply with the 2024 International Building Code and Family of Codes.

Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the 2024 International Building Code and family of Codes as necessary to ensure public health, safety and general welfare. Any use of electrical equipment, extension cords, wires or such shall be installed and or placed in accordance with 2023 NEC or Manufacture Installation Instructions. A site survey of the area will be required for any safety hazards.

Raul Rodriguez
Signature

05/18/2026
Date

Attachment VII - HPD



Specific Use Permit ("SUP") Routing Slip

Applicant: Tim Pust

Phone No.: (956) 536-9190

Location: 6121 FM 106 (Broosters)

Project Description: Request for a Special Use Permit (SUP) to allow a food truck park in a Light Industry ("LI") District, located at 6121 FM 106, bearing a legal description of Lot 3, Block 2, Arroyo View Subdivision.

Department: HARLINGEN POLICE DEPT.

Approval: / YES NO

Comments:



Alfredo Alvear, BSCJ, CPM
Chief of Police

5/15/26

Date

Attachment VIII – Building Inspections



Specific Use Permit ("SUP") Routing Slip

Applicant: Tim Pust

Phone No.: (956) 536-9190

Location: 6121 FM 106 (Broosters)

Project Description: Request for a Special Use Permit (SUP) to allow a food truck park in a Light Industry ("LI") District, located at 6121 FM 106, bearing a legal description of Lot 3, Block 2, Arroyo View Subdivision.

Department: Fire Prevention Bureau

Approval: X YES NO

Comments: **The site plan needs updating for the project. Applicant will have to meet any code, regulation, ordinance, and standard required for permit.**

Fire Marshal Juan Saucedo Jr.

Juan Saucedo Jr.

Date: May 15, 2026

Attachment IX – Health



Specific Use Permit ("SUP") Routing Slip

Applicant: Tim Pust

Phone No.: (956) 536-9190

Location: 6121 FM 106 (Broosters)

Project Description: Request for a Special Use Permit (SUP) to allow a food truck park in a Light Industry ("LI") District, located at 6121 FM 106, bearing a legal description of Lot 3, Block 2, Arroyo View Subdivision.

Department: Health

Approval: ☒ YES ☐ NO

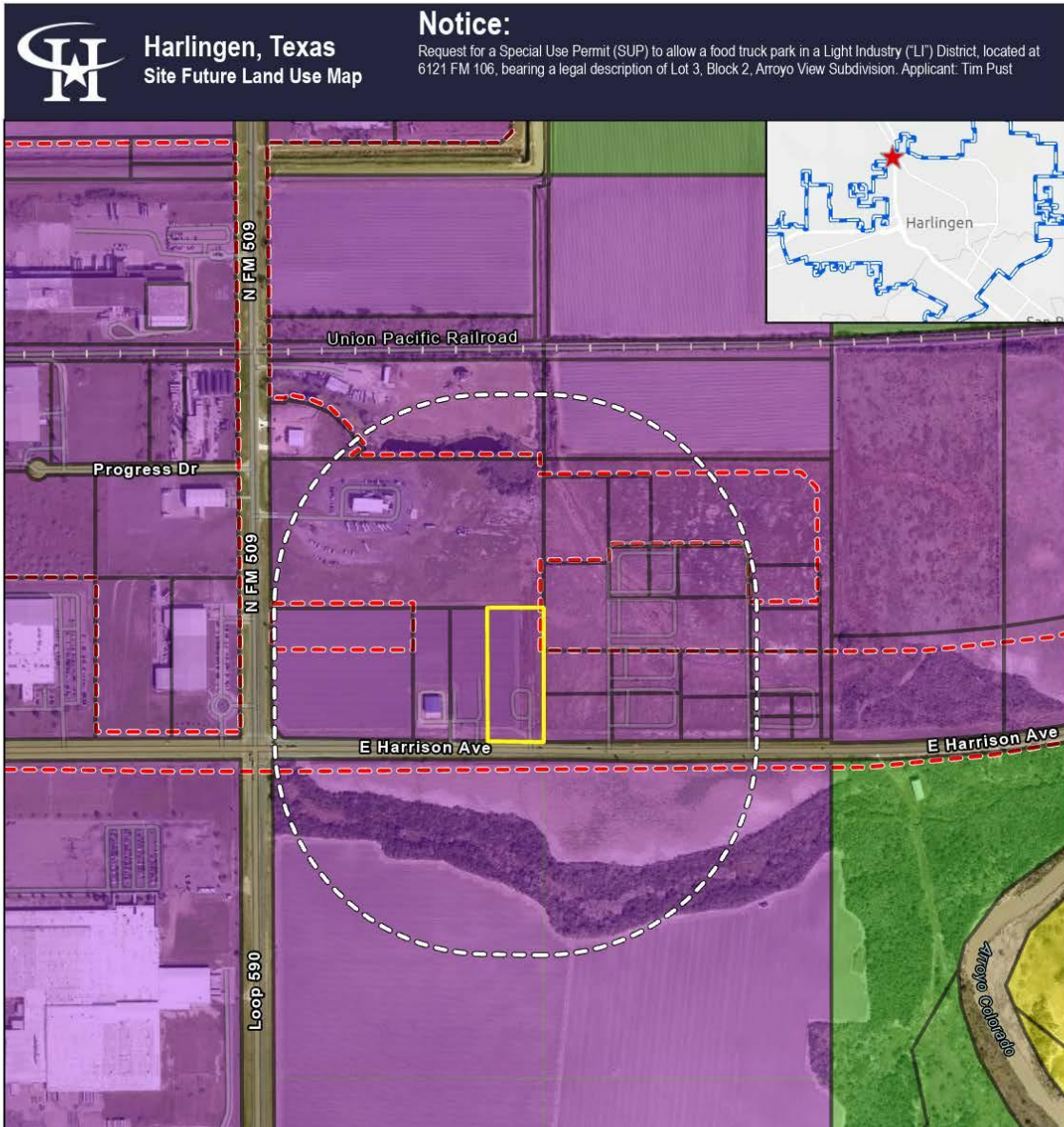
Comments: Will review plans when they are submitted and add my comments at that time.



Signature

5-15-2026 _____
Date

Attachment X – Future Land Use Map



ORDINANCE NO. 26-_____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES (ORDINANCE NO. 16-8) OF THE CITY OF HARLINGEN: TO ISSUE A SPECIAL USE PERMIT (SUP) TO TIM PUTH TO ALLOW A FOOD TRUCK PARK IN A LIGHT INDUSTRY (LI) DISTRICT LOCATED AT 6121 FM 106, BEARING A LEGAL DESCRIPTION LOT 3, BLOCK 2, ARROYO VIEW SUBDIVISION.

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a special use permit for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed special use permit having been fully made and complied with as required by said Code of Ordinances and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

BE IT ORDAINED BY THE CITY OF HARLINGEN

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated:

To issue a Special Use Permit (SUP) to Tim Puth to allow a Food Truck Park in a Light Industry (LI) District located at 6121 FM 106, bearing a legal description of Lot 3, Block 2, Arroyo View Subdivision as shown in Exhibit "A" subject to:

1. Obtaining and maintaining all required State and City permits;
2. Providing and maintaining the required parking in accordance with City regulations;
3. Hours of operation shall be Sunday through Thursday 5pm – 10pm and Friday and Saturday 3pm – 2am;
4. Providing video surveillance with a minimum thirty-day video retention period; and
5. Complying with all applicable requirements administered by the Planning and Zoning Division, Building Inspections Division, Fire Prevention Bureau, Health Department, and Police Department.

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Building Inspection Inspector and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within by the appropriate initials for that portion

herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

FINALLY ENACTED this ____ day of _____, 2026 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

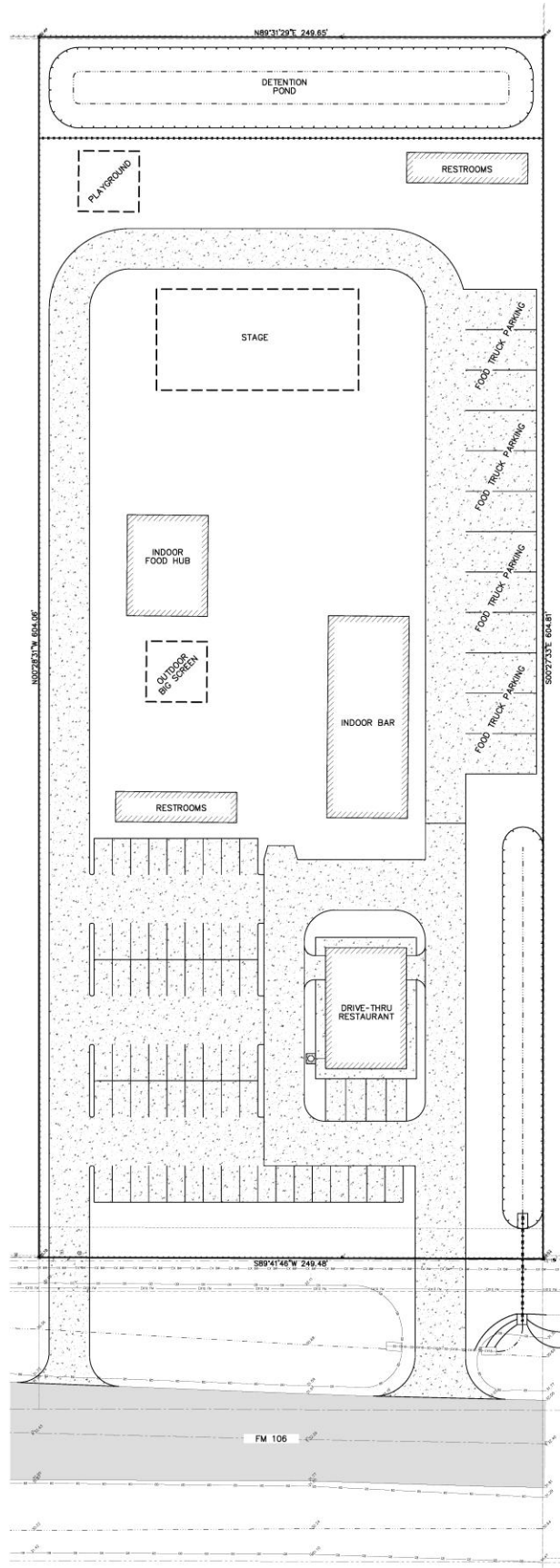
CITY OF HARLINGEN

Norma Sepulveda, Mayor

ATTEST:

Mayra Herrera, City Secretary

Exhibit "A"



**AGENDA ITEM
EXECUTIVE SUMMARY**

Meeting Date: **May 26, 2026**

Agenda Item:

Public hearing and take action to consider a request to rezone from Not Designated (“N”) District to Residential, Mobile Home (“MH”) District for 6.143 acres of land out of Block 18, R.A. Cunningham’s Subdivision, located on the southeast corner of Primera Road and US-77 Frontage Road. Applicant: Joleigh Ares

Prepared By: Joel Olivo

Title: Assistant Planning and Development Director

Signature: *Joel Olivo*

Brief Summary:

Project Timeline

- May 1, 2026 – Application for rezoning submitted to the City. **(ATTACHMENT I).**
- May 7, 2026 – In accordance with State and local law, notice of the required public hearing mailed to all property owners within a 200 feet radius of subject tract.
- May 9, 2026 – In accordance with State and local law, notice of the required public hearings was published in the Valley Morning Star.
- May 26, 2026 - Public hearing and consideration of the requested rezoning by the Planning and Zoning Commission (P&Z).
- June 3, 2026 – Public hearing and consideration of requested rezoning via 1st ordinance reading scheduled before the City Commission.
- June 17, 2026 – Pending approval of 1st ordinance reading, consideration of approval of 2nd ordinance reading scheduled before the City Commission.

Summary

- Joleigh Aries, the applicant, is requesting to rezone the subject property from Not Designated (“N”) District to Residential, Mobile Home (“MH”) District to establish the zoning of the property consistent with the current mobile home and recreational vehicle land use. **(ATTACHMENT II).**
- This property was annexed into the city limits of Harlingen in 1985.
- There is an existing mobile home park on the subject property under the name of Big Sky Mobile Home Park. The property has 405 feet of frontage on Primera Road and depth of 670 feet at its longest point. Primera Road is a four lane 48-foot wide paved street. **(ATTACHMENT III-VI).**
- The surrounding properties are zoned Not Designated (“N”) and Light Industry (“LI”) District to the south, and Planned Development (“PD”) District for residential use to the west. North of the subject property is located in Primera city limits. The surrounding land uses consist of Mr. G’s Fireworks Factory Outlet to the north, a mobile home and recreational vehicle park to the south, and a proposed

residential subdivision to the west. **(ATTACHMENT VII).**

- The Future Land Use Plan (FLUP) component of the Harlingen Horizon – A City on the Rise Comprehensive Plan shows this area as low density residential. Although the request is not consistent with the Future Land Use Plan, it is consistent with the mobile home and recreational vehicle land use to the south of the subject property. **(ATTACHMENT VIII).**
- To the present, the Planning and Zoning Department has not received any opposition to the requested rezoning.

Funding (if applicable):

Are funds specifically designated in the current budget for the full ☐ Yes ☐ No*

*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

Staff Recommendation:

Staff recommends approval.

City Manager's approval: ☐ Yes ☐ No ☐ N/A

Comments:

City Attorney's approval: ☐ Yes ☐ No ☐ N/A

Attachment I

MASTER APPLICATION

*In 3rd Page D: E:\14005\FB49-F11-4572-00001A55CAFE

PROPERTY INFORMATION: (Please PRINT or TYPE)

Project Address 18506 Primera Nearest Intersection Primera and Frontage
 (Proposed) Subdivision Name Survey - Cunningham .714 Acres Lot Block 18
 Existing Zoning Designation NO Future Land Use Plan Designation mobile home park

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE)

Applicant/Authorized Agent Blough Ares Phone 208-352-5779 FAX
 Email Address (for project correspondence only):
 Mailing Address PO Box 654 City Llano State TX Zip 78643
 Property Owner Phone FAX
 Email Address (for project correspondence only):
 Mailing Address City State Zip

Select appropriate process for which approval is sought. Attach completed checklists with this application.

- | | |
|---|---|
| ☐ Annexation Request..... <u>No Fee</u> | ☐ Preliminary Construction Plans/Final Plat..... <u>\$150.00</u> |
| ☐ Administrative Appeal (ZBA)..... <u>\$125.00</u> | ☒ Subdivision Variance Request..... <u>\$25.00 (each)</u> |
| ☐ Comp. Plan Amendment Request..... <u>\$250.00</u> | ☐ Re-plat..... <u>\$250.00</u> |
| ☒ Rezoning Request..... <u>\$250.00</u> | ☐ Vacating Plat..... <u>\$50.00</u> |
| ☐ SUP Request/Renewal..... <u>\$250.00</u> | ☐ License to Encroach..... <u>\$250.00</u> |
| ☐ Zoning Variance Request (Z3A)..... <u>\$250.00</u> | ☐ Right-of-Way/Utility Easement Abandonment..... <u>No Fee</u> |
| ☐ PDD Request..... <u>\$250.00</u> | |

Please provide a basic description of the proposed project:

rezone property for mobile home park usage
currently zone NO

I hereby certify that I am the owner and/or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Applicant's Signature: [Signature] Date: 4/9/26
 Property Owner(s) Signature: [Signature] Date: APRIL 30th, 2026
 Accepted by: Date:

Revised 09/13/2024

Attachment I cont.

May 22, 2026

City of Harlingen
Planning and Zoning Department
502 E. Tyler Avenue
Harlingen, TX 78550

RE: Request for Mobile Home Park Zoning – 18586 Primera Road, Harlingen, Texas 78552

To Whom It May Concern:

Big Sky MHP LLC respectfully requests that the three tracts of land located at 18586 Primera Road, Harlingen, Texas 78552 be rezoned from Non-Designated zoning to Mobile Home Park zoning classification.

Two of the tracts are currently operating as an existing mobile home park. The third tract is presently under contract and is intended to complete the original mobile home park design and development plan as originally envisioned when the community was established.

This zoning request is being submitted to allow all three tracts to operate under a consistent zoning classification and to complete the development of the mobile home park as a unified project. Approval of this request will help ensure compliance with City requirements and support the orderly development and continued operation of the property as a mobile home park community.

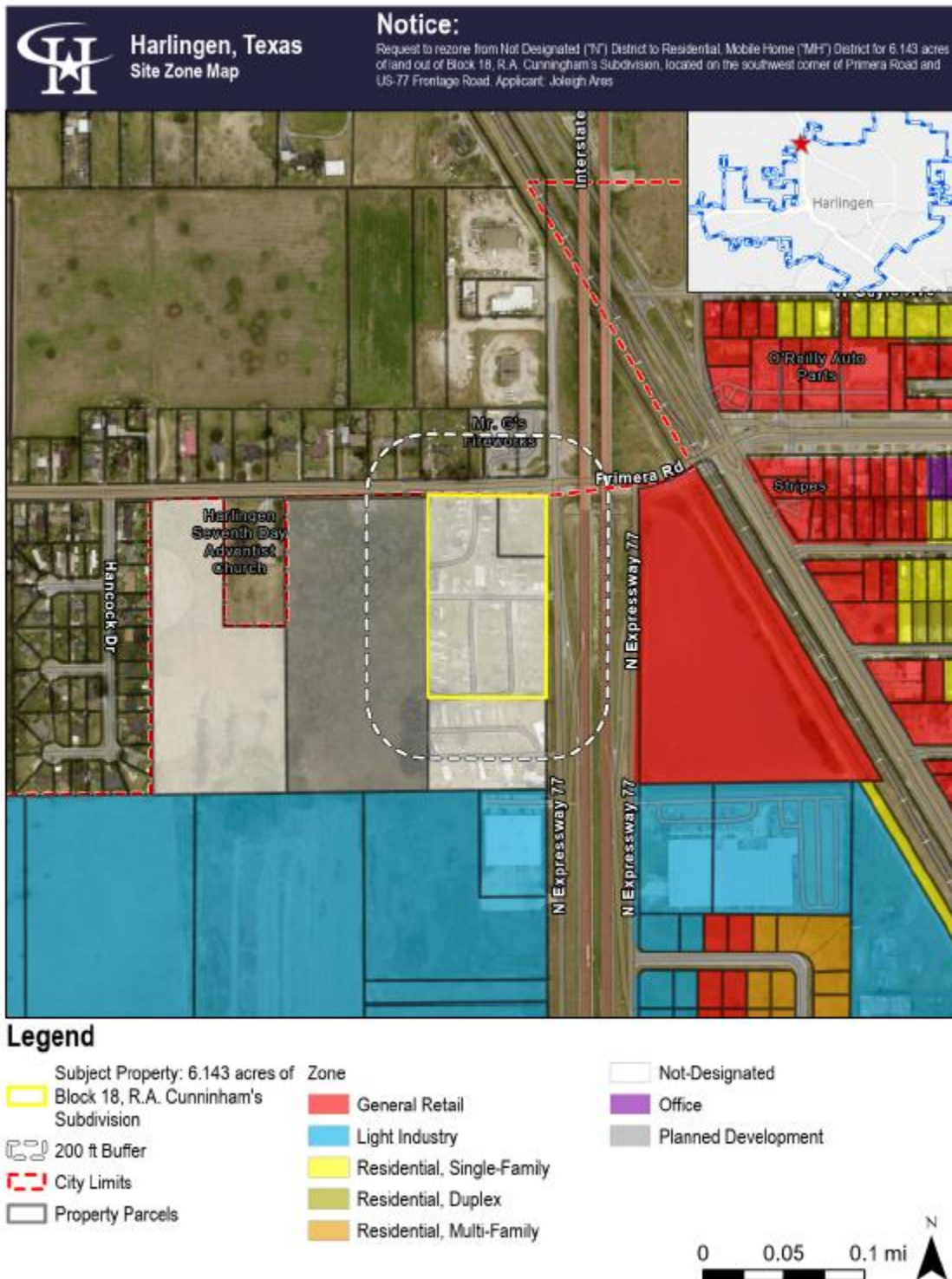
We respectfully request the City's consideration and approval of the requested Mobile Home Park zoning designation. Please advise us of any additional applications, documentation, surveys, public hearing requirements, or fees necessary to proceed with this request.

Thank you for your time and consideration. We look forward to working with the City throughout this process.

Sincerely,

Big Sky MHP LLC

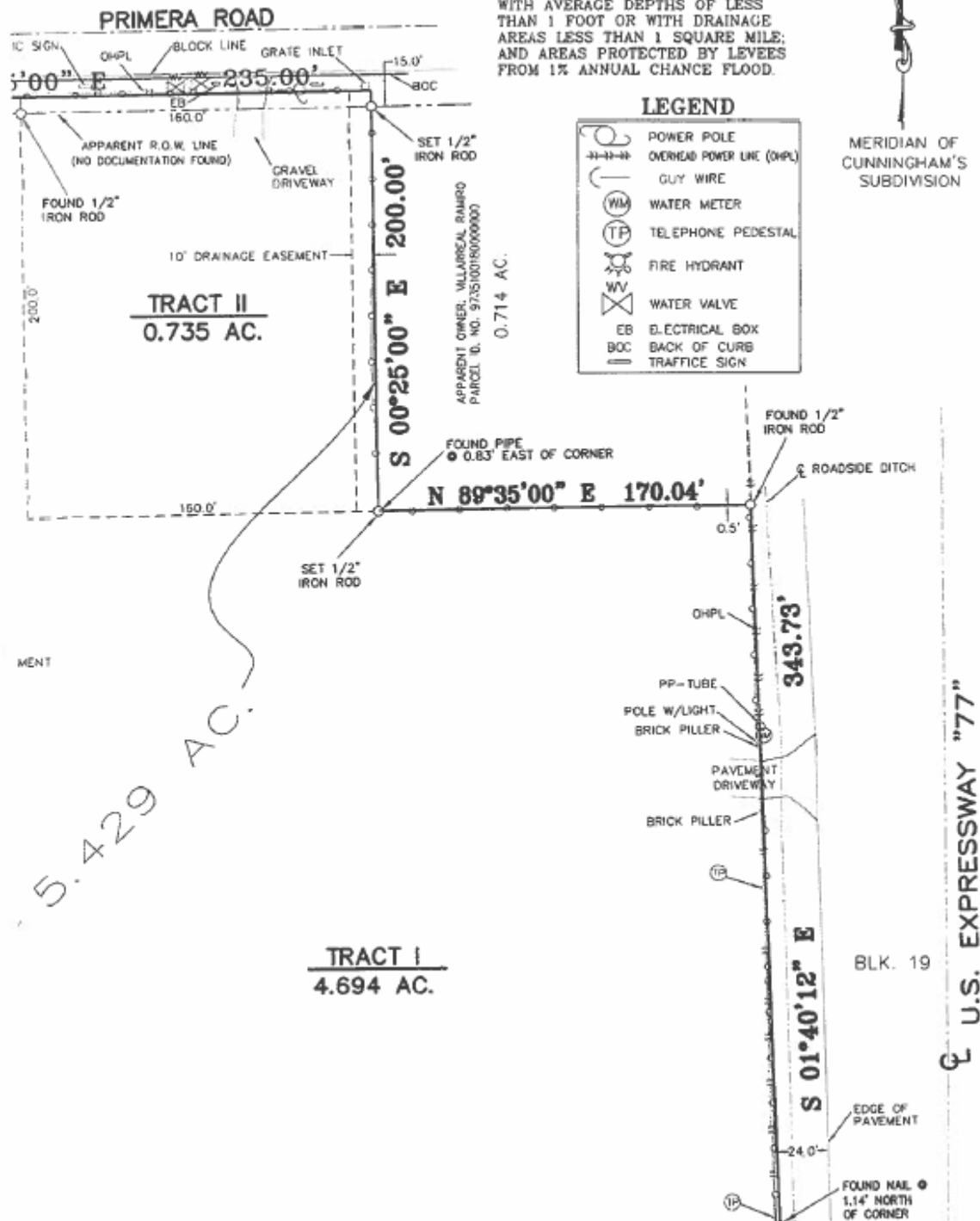
Joleigh Ares
P.O. Box 654
Llano, TX 78643
Phone: 208-350-3779
Email: joleighares@yahoo.com



Attachment III

THE BENEFIT OF
ND ALL
OR EXCEPTIONS
ER'S REQUEST.

FLOOD INSURANCE RATE MAP OF
COMMUNITY PANEL NO.: 48061C0255F
DATE: 02/16/2018 ZONE: "X" AREAS
OF 0.2% ANNUAL CHANCE FLOOD;
AREAS OF 1% ANNUAL CHANCE FLOOD
WITH AVERAGE DEPTHS OF LESS
THAN 1 FOOT OR WITH DRAINAGE
AREAS LESS THAN 1 SQUARE MILE;
AND AREAS PROTECTED BY LEVEES
FROM 1% ANNUAL CHANCE FLOOD.



Attachment IV

View from the Northeast on
Expressway 77 and Primera
Road



Attachment V

View from the East
on Expressway 77



Attachment VI

Current Aerial View of
Mobile Home Park

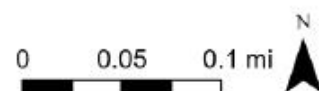


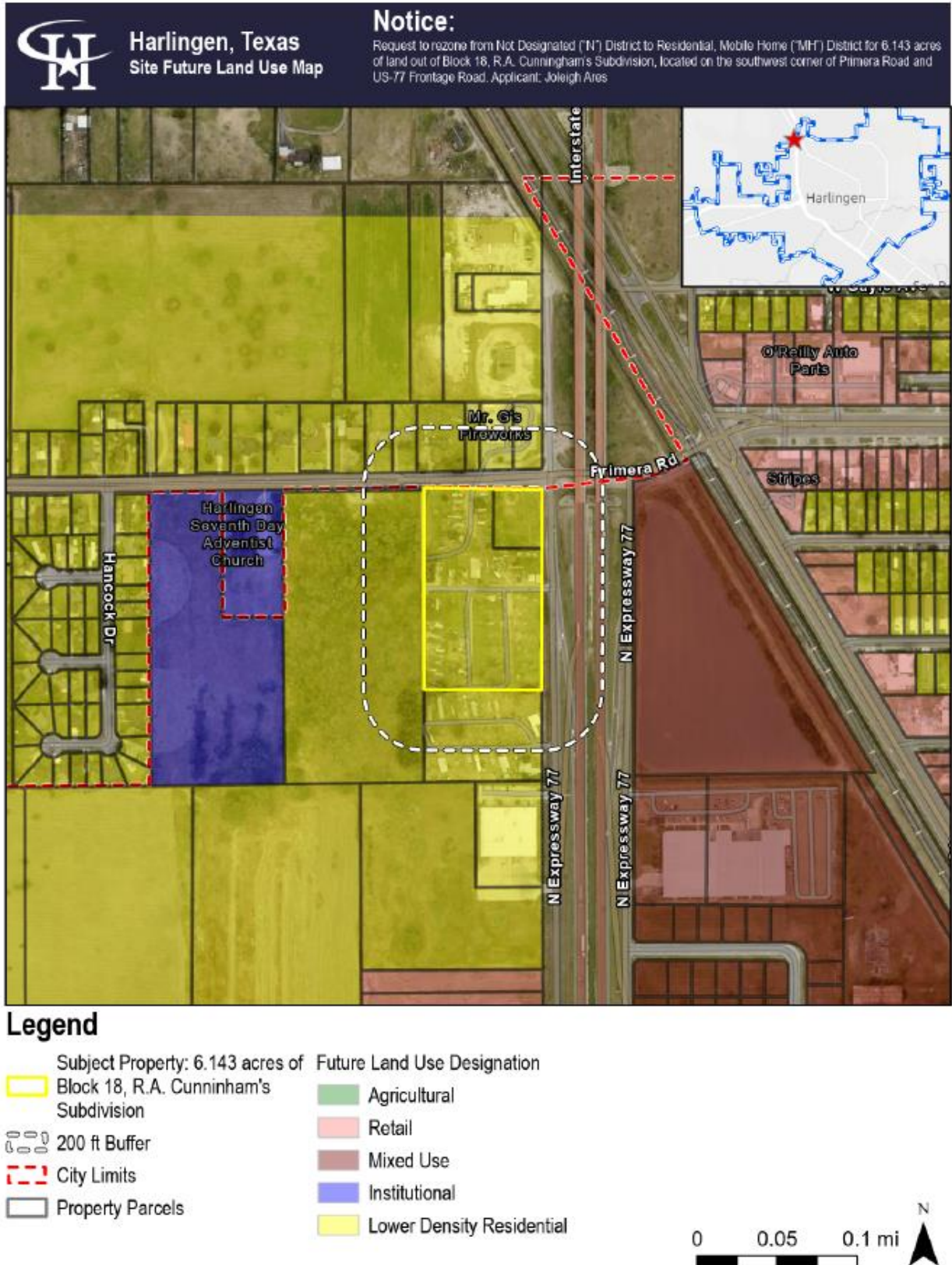
Attachment VII



Legend

- Subject Property: 6.143 acres of Block 18, R.A. Cunningham's Subdivision
- 200 ft Buffer
- City Limits
- Property Parcels





ORDINANCE NO. 26-

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN: REZONING FROM NOT DESIGNATED ("N") DISTRICT TO RESIDENTIAL, MOBILE HOME ("MH") DISTRICT FOR 6.143 ACRES OF LAND OUT OF BLOCK 18, R.A. CUNNINGHAM'S SUBDIVISION, LOCATED ON THE SOUTHWEST CORNER OF PRIMERA ROAD AND US-77 FRONTAGE ROAD

WHEREAS, the Planning and Zoning Commission of the City of Harlingen pursuant to Harlingen's Zoning Ordinance procedure, has recommended a change in the zoning classification for certain described real property in the City of Harlingen; and it is deemed to be in the best interest of the City of Harlingen in accordance with said recommendation of the Planning and Zoning Commission of the City, being the recommendation as hereinafter set forth; and public notice of such proposed rezoning having been fully made and complied with as required by said Zoning Ordinance and applicable laws of the State of Texas; and the City Commission of the City of Harlingen having held public hearings with reference thereto, being duly and thoroughly heard; and after consideration of the evidence presented, said City Commission is of the opinion that it is in the best interest of the City of Harlingen that said Code of Ordinances be amended as indicated, now, therefore,

BE IT ORDAINED BY THE CITY OF HARLINGEN

That the Code of Ordinances of the City of Harlingen (Ordinance 16-8) be and the same is herewith amended by the following described property being changed for permissive zone use as indicated:

Rezoning from Not Designated ("N") District to Residential, Mobile Home ("MH") District for 6.143 acres of land out of Block 18, R.A. Cunningham's Subdivision, located on the southwest corner of Primera Road and US 77 Frontage Road, as shown in Exhibit "A".

A copy of the Zoning Map constituting a part and parcel of the Code of Ordinances, as filed with the Building Inspection Inspector and for the joint use and information of the Planning and Zoning Commission shall, upon final enactment hereof, be and the same is herewith amended and revised to reflect that the above described property is zoned for land use purposes as above indicated by the boundaries thereof being outlined in pronounced heavy line markings and such heavy line marking boundary enclosure being indicated within by the appropriate initials for that portion herewith zoned for particular land uses; with the Planning and Development Director being herewith instructed and authorized to document such Zoning Map changes and revisions.

The provisions of this ordinance shall become effective from and after the final and lawful passage hereof and publication of the caption hereof as provided for and required in the Code of Ordinances and applicable state statutes.

FINALLY ENACTED this day of _____, 2026 at a regular meeting of the Elective Commission of the City of Harlingen, Texas at which a quorum was present, and which was held in accordance with TEXAS GOVERNMENT CODE, CHAPTER 551.

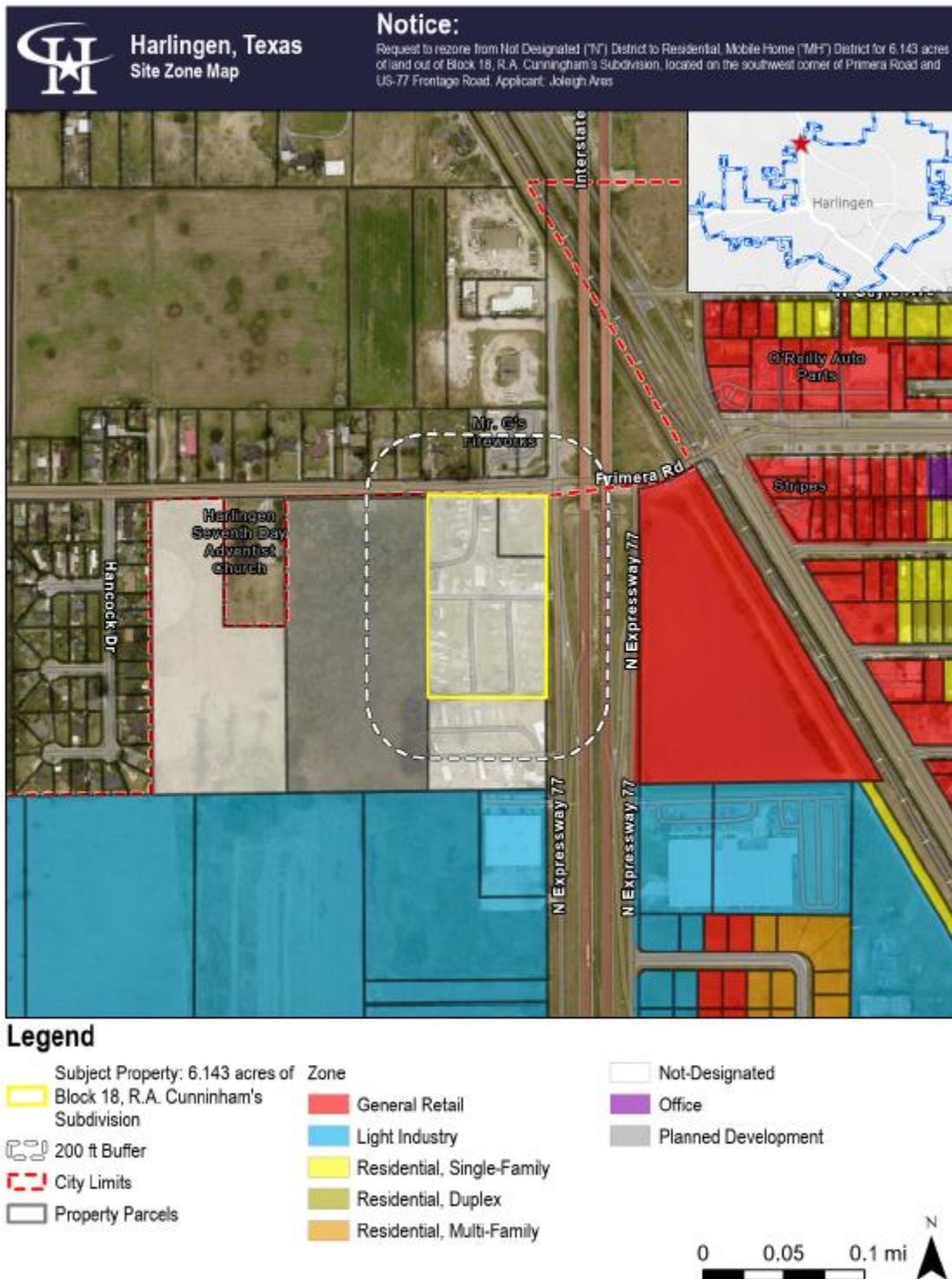
CITY OF HARLINGEN

Norma Sepulveda, Mayor

ATTEST:

Mayra Herrera, City Secretary

EXHIBIT "A"



**AGENDA ITEM
EXECUTIVE SUMMARY**

Meeting Date: **April 28, 2026**

Agenda Item:

Public hearing and take action to consider an ordinance of the City Commission of the City of Harlingen, Texas, amending Chapter 111, "Zoning," of the Code of Ordinances of the City of Harlingen by adopting comprehensive text amendments to the city's zoning regulations, including amendments to general provisions, definitions, interpretation provisions, administrative authority, zoning procedures, zoning districts, land use regulations, certificates of occupancy, building site requirements, area and dimensional standards, height regulations, parking, loading, stacking, site development requirements, landscaping, fence and screening standards, sign regulations, accessory, portable, and storage building regulations, special use regulations, nonconforming uses and structures, special use permits, board of adjustment procedures, enforcement provisions, overlay districts, bed and breakfast establishments, illustrations, figures, diagrams, and other related development and administrative regulations; repealing conflicting ordinances and regulations; providing for severability; providing for codification; providing a savings clause; and establishing an effective date. Applicant: City of Harlingen

Prepared By: Ana Hernandez, AICP-CNU-A
Title: Planning and Development Director/
Special Projects Director

Signature: *Ana Hernandez*

Brief Summary:

Project Timeline

- May 9, 2026 – In accordance with State and local law, notice of required public hearings was published in the Valley Morning Star.
- May 26, 2026 – Public hearing to recommend the proposed ordinance amendments to Chapter 111 – Zoning.
- June 1, 2026, through July 3, 2026 – Public comment period on proposed ordinance changes.
- July 15, 2026 (tentative) – Public hearing and consideration on the proposed amendments by the City Commission via First Ordinance Reading.
- August 5, 2026 (tentative) – Public hearing and consideration on the proposed amendments by the City Commission via Second and Final Reading.

Summary

- The Planning and Development Department has prepared a series of text amendments to the City's Zoning Ordinance (Chapter 111). The purpose of these amendments is to update the City's zoning regulations, improve clarity and consistency, better align the ordinance with the Harlingen Horizon – A City on the Rise Comprehensive Plan, and provide clearer standards for staff, applicants, property owners, and decision-makers.
- The proposed amendments are intended to improve the administration and enforcement of the zoning ordinance by updating zoning procedures, land use classifications, administrative review authority, certificate of occupancy requirements, dimensional standards, parking and loading provisions, accessory structure regulations, nonconforming use provisions, enforcement procedures, annexation zoning procedures, sign regulations, and related development

standards.

- Major Ordinance Updates:

- The proposed amendments establish an updated zoning district framework, including districts such as AG Agricultural, OS Open Space/Recreation, R-1 Low Density Residential, R-2 Medium Density Residential, MF Multifamily, MH Mobile Home, MU-N Neighborhood Mixed Use, MU-C Community Mixed Use, C-1 Neighborhood Commercial, C-2 General Commercial, E Employment, I Institutional, LI Light Industrial, and HI Heavy Industrial. These districts are intended to provide clearer categories for residential, mixed-use, commercial, employment, institutional, and industrial development.
- Revised use chart and definitions
- Revised administrative procedures.
- Revised regulations for accessory structures and carports
- New regulations and standards for accessory dwelling units.

The full proposed changes are attached for your review and input. The Planning and Development Department requests that the Planning and Zoning Commission conduct a public hearing, review the proposed text amendments, and make a recommendation to the City Commission.

Funding (if applicable):

Are funds specifically designated in the current budget for the full amount for this purpose? ☐ Yes ☐ No*

*If no, specify source of funding and amount requested:

Finance Director's approval: ☐ Yes ☐ No ☐ N/A

Staff Recommendation:

Staff is seeking input on the proposed changes.

City Manager's approval: ☐ Yes ☐ No ☐ N/A

Comments:

City Attorney's approval: ☐ Yes ☐ No ☐ N/A

ORDINANCE NUMBER 2026 - _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS, AMENDING CHAPTER 111, “ZONING,” OF THE CODE OF ORDINANCES OF THE CITY OF HARLINGEN BY ADOPTING COMPREHENSIVE TEXT AMENDMENTS TO THE CITY’S ZONING REGULATIONS, INCLUDING AMENDMENTS TO GENERAL PROVISIONS, DEFINITIONS, INTERPRETATION PROVISIONS, ADMINISTRATIVE AUTHORITY, ZONING PROCEDURES, ZONING DISTRICTS, LAND USE REGULATIONS, CERTIFICATES OF OCCUPANCY, BUILDING SITE REQUIREMENTS, AREA AND DIMENSIONAL STANDARDS, HEIGHT REGULATIONS, PARKING, LOADING, STACKING, SITE DEVELOPMENT REQUIREMENTS, LANDSCAPING, FENCE AND SCREENING STANDARDS, SIGN REGULATIONS, ACCESSORY, PORTABLE, AND STORAGE BUILDING REGULATIONS, SPECIAL USE REGULATIONS, NONCONFORMING USES AND STRUCTURES, SPECIAL USE PERMITS, BOARD OF ADJUSTMENT PROCEDURES, ENFORCEMENT PROVISIONS, OVERLAY DISTRICTS, BED AND BREAKFAST ESTABLISHMENTS, ILLUSTRATIONS, FIGURES, DIAGRAMS, AND OTHER RELATED DEVELOPMENT AND ADMINISTRATIVE REGULATIONS; REPEALING CONFLICTING ORDINANCES AND REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING A SAVINGS CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Harlingen is a home-rule municipality authorized to adopt and amend zoning regulations for the purpose of promoting the public health, safety, morals, and general welfare of the community; and

WHEREAS, the City Commission has adopted the Harlingen Horizon – A City on the Rise Comprehensive Plan establishing updated land use policies and future land use categories, including residential, mixed-use, commercial, employment, industrial, institutional, recreation, open space, and other related categories intended to guide future growth and development; and

WHEREAS, Chapter 111, “Zoning,” of the Code of Ordinances of the City of Harlingen requires modernization to better align the City’s zoning districts, land use regulations, development standards, and administrative procedures with the Comprehensive Plan; and

WHEREAS, the City Commission finds that comprehensive amendments to Chapter 111 are necessary to improve clarity, consistency, predictability, and efficiency in the administration and enforcement of the City’s zoning regulations; and

WHEREAS, the City Commission desires to update zoning procedures, administrative review authority, certificate of occupancy requirements, dimensional standards, parking and loading standards, accessory structure regulations, special use permit procedures, nonconforming use and structure provisions, enforcement procedures, and related development standards; and

WHEREAS, the City Commission recognizes the need to modernize regulations for accessory structures, portable buildings, storage buildings, storage containers, detached carports, detached garages, swimming pools, and accessory dwelling units in a manner that reflects existing lot conditions, protects neighborhood character, and promotes public safety; and

WHEREAS, the City Commission finds that the regulations governing nonconforming uses, structures, lots, and site conditions should be updated to provide clearer standards for lawful nonconforming status, continuation, abandonment, repair, reconstruction, expansion, and compliance with applicable state law; and

WHEREAS, the City Commission desires to improve public transparency and due process by updating applicable notice, hearing, signage, administrative review, appeal, and public meeting procedures consistent with state law and the City's home-rule authority; and

WHEREAS, the Planning and Zoning Commission, after providing notice and conducting a public hearing as required by law, has considered the proposed amendments and made a recommendation to the City Commission; and

WHEREAS, the City Commission, after providing notice and conducting a public hearing as required by law, has considered the proposed amendments and finds that the amendments are reasonable, necessary, and in the best interest of the City; and

WHEREAS, the City Commission finds that the adoption of this Ordinance promotes orderly development, protects property values, improves administrative efficiency, supports implementation of the Comprehensive Plan, and advances the public health, safety, and general welfare of the City of Harlingen;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HARLINGEN, TEXAS THAT:

SECTION I. Chapter 111, "Zoning," is hereby amended to read as follows:

Chapter 111 ZONING

ARTICLE I IN GENERAL

§ 111-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Any terms not defined within this document shall be considered to have the most commonly acceptable meaning as can be identified in a standard dictionary.

Abutting means lying adjacent or contiguous along a common border.

Accessory dwelling unit means a subordinate dwelling unit located on the same lot as a principal single family dwelling and containing permanent provisions for living, sleeping, cooking, and sanitation.

Accessory structure or use means a detached subordinate structure located on the same lot as a principal building or principal use, the use of which is customarily incidental to and supportive of the principal building or principal use. Accessory structures include, but are not limited to, detached private garages, detached carports, storage buildings, sheds, pool houses, cabanas, workshops, and similar structures.

Accessory building, see 11-303(a)(1), ~~in a residential district, means a detached subordinate building used for a purpose customarily incidental to the main structure, including, but not limited to, a private garage for automobile storage, greenhouse as a hobby, home workshop, children's playhouse, garden shelter, but not involving the conduct of a business.~~

Accessory use means a use subordinate to and incidental to the primary use of the main building or to the primary use on the premises.

Adult business means a business whose product or service sales are restricted to adults over age 18 years, including, but not limited to, tattoo parlors and head shops.

Administrative site review means the review and approval by the Planning and development director or designee of a site plan, survey, or similar drawing to confirm compliance with applicable zoning, setback, lot coverage, height, drainage, easement, access, sight visibility, screening, building permit, windstorm, and site development requirements.

Alley means a public space or thoroughfare which affords only secondary means of access to property abutting thereon.

Apartment means a room or suite of rooms in a multifamily dwelling or apartment house arranged, designed or occupied as a place of residence by a single family, individual or group of individuals.

Apartment house means 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. Apartment house is a type of multifamily dwelling.

Area of the lot means the net area of the lot including easements, but shall not include portions of streets and alleys.

Assisted living facility means residences for the elderly that provide rooms, meals, personal care, and/or supervision of self-administered medication. The use is similar to a nursing home, but more like apartment living than hospitalization (same as group home).

Bakery, retail, means a place for preparing, baking and selling baked goods and products prepared on the premises.

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Bar/lounge means establishments where alcoholic beverages are sold for on-premises consumption. (Note: an establishment that can prove it produces more than 50 percent of its gross income in sales of food items may be classified as a restaurant rather than a bar/lounge.)

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Basement means a building story which is partly or wholly underground. A basement shall not be counted as a story in computing building height.

Bed and breakfast means an establishment typically run from an individuals' residence that offers overnight accommodations and a morning meal to visitors for compensation.

Block means an area enclosed by streets and occupied by or intended for buildings; or if it is used as a term of measurement, it shall mean the distance alongside of a street between the nearest two (2) streets which intersect said street on the said side.

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Board means the zoning board of adjustment established in article XVI of this chapter.

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Boardinghouse means a building other than a hotel, where lodging and meals for five (5) or more persons are served for compensation.

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Building means any structure built for the support, shelter and enclosure of persons, animals, chattels or moveable property of any kind. The term "building" means the same as the term "structure."

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Building line means a line parallel or approximately parallel to the street line at a specified distance there from marking the minimum distance from the street line that a building may be erected.

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Bulk storage means the unpackaged, unbundled, unbound or loose storage, in mass quantities, of materials.

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Call center means a central place where customer and other telephone calls are handled by an organization, usually with some amount of computer automation. Typically, a call center has the ability to handle a considerable volume of calls at the same time, to screen calls and forward them to someone qualified to handle them, and to log calls. Call centers are used by mail-order catalog organizations, telemarketing companies, computer product help desks, and any large organization that uses the telephone to sell or service products and services.

Carport means an accessory structure consisting of a roof supported by posts, columns, or similar supports and designed primarily for the parking or storage of motor vehicles. A carport is not enclosed and is not a garage.

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Cellar means a building story with more than one-half its height below the average level of the adjoining ground. A cellar shall not be counted as a story in computing building height (same as basement).

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Certificate of occupancy or compliance means an official certificate issued by the city through the enforcing official which indicates a conformance with or approved conditional waiver from the zoning regulations and authorizes a legal use of the premises for which it is issued.

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City commissioners means the governing body of the City of Harlingen, Texas. City manager means the chief city administrator.

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Cleaners means a retail service providing dry cleaning of clothes.

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Cleaning and dyeing service including carpeting means an industrial use in which products are cleaned and/or dyed through chemical processes. No direct exterior exhaust from a cleaning plant is permitted and dust and/or fumes must be controlled by either bag or filter and separator or precipitator so as to eliminate the exhausting of dust, odor, fumes or noise outside the plant.

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Clinic means a group of offices of one (1) or more physicians, surgeons or dentists to treat sick or injured out-patients who do not remain overnight.

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College, university or private school means an institution established for educational purposes and offering a curriculum similar to the public schools or an accredited college or university, but excluding trade and commercial schools.

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Commercial amusements, outdoor means activities such as golf driving ranges, pitch and putt courses, archery, miniature golf, carnivals and similar outdoor activities, but not including go-cart racing, drag strips or auto racing.

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Condominium, as applied to the ownership of real estate, means a living unit with ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, such as yards, foundations, basements, floors, walls, hallways, stairways, elevators and all other related common elements, together with individual ownership in fee of a particular unit or apartment in such building. In this context, it is confined to ownership of a residential unit such as an apartment.

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Convalescent home means any structure used for, or customarily occupied by, persons recovering from illness or suffering from infirmities of age.

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Court means 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.

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Custom personal service means establishments primarily engaged in providing services involving the care of a person or his personal goods or apparel. Services include, but are not limited to, a tailor shop, shoe repair, health studio or travel consultant.

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Day nursery or day care center (adult or children) means an establishment where more than six (6) children or adults are left for care or training during the day or portion thereof. A public or private children day care operated out of a church is a permitted use in any of the designated zoning

districts listed for a church in section 111-62, subject to complying with the required off-street parking and loading space listed in article VI of this chapter, and all applicable building, fire and health code requirements. Six (6) or fewer children or adults may be left for care or training during the day, or a portion thereof, in a single-family residential, multifamily residential, and mobile home residential district only if:

1. The residential structure maintains a completely residential appearance.
2. A screening fence is maintained in the rear yard of the property to keep children on the premises.
3. No sign advertising the service is placed on the residential premises.

Depth of lot means the mean horizontal distance between the front and rear lot lines. (See section 111-580.)

Distribution center means an establishment engaged in the receipt, storage and distribution of goods, products, cargo and materials, including transshipment by boat, rail, air or motor vehicle. The breakdown of large orders from a single source into smaller orders and consolidation of several orders into one large one for distribution to several recipients and vice versa are often part of the function of a distribution center (sometimes overlaps warehouse functions).

District means a section of the City of Harlingen from which the regulations governing the area, height or use of the land and buildings are uniform.

Duplex means a building on a single lot containing two (2) single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof. For the purposes of this chapter, duplexes are regulated separately from multifamily dwellings.

Dwelling, multiple-family, means any building, or portion thereof, which is designed, built, rented, leased or let to be occupied as ~~two-three (32)~~ or more dwelling units or apartments or which is occupied as a home or residence of ~~two-three (32)~~ or more families living in independent dwelling units.

Dwelling, one-family, means a detached building designed, arranged, occupied, or intended to be occupied as one dwelling unit by one family or single housekeeping unit, having accommodations for and occupied by not more than one (1) family or by one family and not more than four (4) boarders and lodgers.

Dwelling, two-family. Same as duplex.

Dwelling unit means a building or portion of a building which is arranged, occupied or intended to be occupied as living quarters and includes facilities for living, cooking, food preparation, and sleeping, and sanitation.

Easement means a right given by the owner of a parcel of land to another person, public agency, or corporation for a specific and limited use of the parcel.

Family means one or more individuals occupying a dwelling unit and living together as a single housekeeping unit, sharing common living, cooking, and household facilities. The term shall not be interpreted to limit occupancy based on whether occupants are related by blood, marriage, adoption, guardianship, affinity, consanguinity, or other relationship status, except as otherwise

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allowed by state or federal law, means any number of individuals living together as a single housekeeping unit, in which not more than four (4) individuals are unrelated by blood, marriage or adoption.

Farmers market or vendor market means an organized temporary, recurring, or seasonal market at a designated location where multiple vendors sell agricultural products, food products, handmade goods, artisan goods, crafts, cottage food products, or similar market items directly to the public, including through pop-up tents, booths, tables, or temporary displays. ~~an organized operation at a designated location used by vendors primarily for the distribution and sale of locally produced agricultural products. Such establishment if located in a residential district must be a located on a lot or tract of land no less than five (5) acres.~~

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Farm, ranch, garden or orchard means an area of five (5) acres or more which is used for growing of usual farm products, vegetables, fruits, trees and grains, and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle and sheep, 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, not including any type of agriculture or husbandry specifically prohibited by ordinance or law, and not including those types or operations generally considered as feedlots.

Floor area means the total square feet of floor space within the outside dimensions of a building, including each floor level, but excluding cellars, carports or garages.

Floor area ratio means an indicated ratio between the number of square feet of total floor area in the main building on a lot and the total square footage of land in the lot; it is the number resulting from dividing the main building floor area by the lot area.

Fourplex. Same as quadruplex.

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Furniture and appliance storage, repair and sale, new and used, outside means the unenclosed sale of used goods. ~~(Used furniture and/or appliances may not be stored, repaired, displayed nor sold outside of a building in general retail zone.)~~

Garden/patio home, subject to the use chart in section 111-62, means a garden or patio home is a single-family dwelling unit in which one wall may be erected to one common property line; said wall can have no penetration of any kind, including, but not limited to, openings for windows, doors, ventilators, clothes dryer vents, water heaters, pressure discharge pipes, electrical circuits and apparatus, and shall be constructed and maintained to a fire resistance rating as required by the latest building and/or fire codes adopted by the city. No garden or patio home, or part thereof, shall encroach into a restricted area as defined in section ~~40-104~~111-581.

Greenhouse, nursery for retail means the display of plants offered for sale must be behind the front yard line established in the district in which the nursery or greenhouse is located.

Group home. See assisted living facility.

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Halfway house (or residential reentry center) means a residential facility as provided by V.T.C.A., Government Code Ch. 508, and used by the State of Texas Pardons and Paroles Division, to divert from housing in regular units of the institutional division, suitable low-risk inmates and other

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inmates who would benefit from a smoother ~~transaction~~ transition from incarceration to supervised release.

Height means 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;
- ~~1.~~ The deck line of mansard roofs; or
2. The mean height level between eaves and ridge 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 10 feet in height.
3. If the street grade has not been officially established, the average front yard grade shall be used for a base level.

Historically significant building, through the review and approval of a special use permit (SUP)

application for a bed and breakfast use, means a building determined by the city commission to be historically significant based on any of the following criteria:

- ~~1.~~ The building is listed or is found to be eligible for listing on the National Register of Historic Places;
1. The building is listed or is found to be eligible for listing as a Recorded Texas Historical Landmark, a state archeological landmark, or a state historical marker; or
2. The building, in whole or in part, was built 50 or more years prior to the date the subject SUP application is submitted to the city.

Home occupations means an occupation customarily carried on in the home by a member of the occupant's family, without the employment of additional persons, without the use of a sign to advertise the occupation, without offering any goods for sale on the premises and which does not create obnoxious noise or other obnoxious conditions to abutting residential property, such as odor, increased traffic congestion, light or smoke.

Hospital/nursing home means an institution where sick or injured patients are given medical or surgical treatment for a temporary or extended period of time and which is licensed by the State of Texas.

Household appliance service and repair means a repair service including items such as radio and television, but not involving the use of equipment which generates noise, odor or electrical frequencies so as to interfere with the use and enjoyment of adjacent property.

Industrial manufacturing, light, ~~means a manufacturing, assembly, fabrication, processing, packaging, research and development, warehousing, distribution, or similar industrial activity that is conducted primarily within an enclosed building and operated in a manner that does not create noise, vibration, dust, smoke, fumes, gas, odor, glare, heat, fire hazard, explosion hazard, hazardous material exposure, or other external impacts that are detectable beyond the property line under normal operating conditions. Light industrial manufacturing may include small-scale assembly, product packaging, electronics assembly, medical device assembly, cabinet or millwork fabrication, commercial printing, research and testing laboratories, small-scale food~~

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~~production, warehousing, distribution, and similar low-impact industrial uses. A use that otherwise meets the general description of light industrial manufacturing shall require a special use permit when listed as requiring a special use permit in the use chart or elsewhere in this chapter, means operations which do not emit detectable dust, odor, smoke, gas or fumes beyond the bounding property lines of the lot or tract upon which the use is located and which do not generate noise or vibration at the boundary of the LI District which is generally perceptible in frequency or pressure above the ambient level of noise in the adjacent areas. Light industrial manufacturing operations of any type which meet the general conditions set forth above and which are not offensive by the reason of the emission of noise, odor, smoke, gas, fumes, dust, glare or the creation of hazard, but specifically excluding the following uses:~~

- ~~1. Animal feedlots;~~
- ~~2. Animal slaughtering or chicken killing;~~
- ~~3. Acid manufacture;~~
- ~~4. Ammonia manufacture;~~
- ~~5. Automobile wrecking yard;~~
- ~~6. Carbon black manufacture;~~
- ~~7. Cement, lime gypsum or plaster of Paris manufacture;~~
- ~~8. Chlorine manufacture;~~
- ~~9. Cotton gin or compress;~~
- ~~10. Explosives storage or manufacture;~~
- ~~11. Glue and fertilizer manufacture;~~
- ~~12. Petroleum and petroleum products refining and manufacture;~~
- ~~13. Petroleum tank farm;~~
- ~~14. Petrochemical plant;~~
- ~~15. Rendering plant; and~~

~~Any use which due to the possible emission of excessive smoke, noise, gas, fumes, dust, odor or vibration or danger of explosion or fire is presently or in the future is determined a hazard and subject to special control.~~

~~Industrial manufacturing, heavy means a manufacturing, processing, assembly, storage, distribution, salvage, recycling, refining, extraction, or similar industrial activity that may involve outdoor operations, large-scale equipment, heavy truck traffic, hazardous or combustible materials, high-volume production, or external impacts such as noise, vibration, dust, smoke, fumes, gas, odor, glare, heat, fire hazard, explosion hazard, or other conditions requiring separation from residential, mixed-use, commercial, or institutional areas. Heavy industrial manufacturing may include animal slaughtering or processing, automobile wrecking or salvage yards, cement, lime, gypsum, or plaster manufacturing, chemical manufacturing, cotton gins or compresses, explosives manufacturing or storage, fertilizer manufacturing, petroleum or petroleum products refining, petroleum tank farms, petrochemical plants, rendering plants, recycling or materials recovery operations, and similar intensive industrial uses. A heavy industrial manufacturing use shall be permitted only where allowed by the use chart and may require a special use permit where indicated by this chapter.~~

~~Industrial use requiring special use permit means an industrial, manufacturing, processing, storage, distribution, salvage, recycling, outdoor operation, or similar use that may be appropriate in one or more zoning districts only after site-specific review and approval~~

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through the special use permit process. Such uses may have potential impacts related to noise, odor, dust, smoke, fumes, vibration, hazardous or combustible materials, outdoor storage, truck traffic, hours of operation, drainage, utility demand, fire risk, security, or compatibility with surrounding properties. Approval shall be subject to the use chart, the special use permit procedures of this chapter, and any conditions imposed by the City Commission.

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~~Industrial use, unlisted, other,~~ means an industrial, manufacturing, processing, storage, distribution, salvage, recycling, or similar use that is not specifically listed in this chapter. An unlisted industrial use shall be classified by the planning and development director in accordance with §111-33 based on the use's operational characteristics, including noise, odor, dust, smoke, fumes, vibration, hazardous materials, outdoor storage, truck traffic, utility demand, fire risk, and compatibility with surrounding properties. The director's classification shall not authorize a prohibited use, waive a special use permit requirement, or allow a use in a district where the most similar listed use is not permitted.~~any manufacturing or industrial use not prohibited by law, except those uses listed in the definition of light industrial manufacturing, which shall not be permitted without a special use permit as set forth in section 111-62.~~

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Industrial use, prohibited means any industrial, manufacturing, processing, storage, distribution, disposal, or similar activity that is prohibited by federal law, state law, or local ordinance, or that cannot lawfully be conducted without a required license, permit, registration, or approval from the agency having jurisdiction. Nothing in this chapter shall be construed to authorize any use, activity, material, process, or operation that is prohibited by law.

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Intensity means the level of activity associated with a land use, including but not limited to traffic generation, occupancy, hours of operation, building size, and demand for parking or utilities.

Kennel means any lot or premises on which four (4) or more animals, four (4) months of age or older are kept temporarily or permanently for the purpose of training, breeding, boarding or for sale.

Laundromat, including self-service dry cleaning, means clothes cleaning facility of a similar type customarily found in the home and of the customer self-service type and not a commercial laundry or cleaning plant.

Living unit. See dwelling unit.~~means the rooms occupied by a family and must include cooking and bathroom facilities.~~

Lodginghouse means a building where lodging for five (5) or more persons is provided for compensation.

Lot means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as required under this chapter, and having its principal frontage upon a public street. The term "lot" means the same as the term "plot" or "parcel."

Lot coverage means the percentage of the total area of a lot occupied by the footprint (first story of floor) of buildings located on the lot and including any impervious surfaces such as asphalt or concrete.

Lot depth means the mean distance between the front and rear lot lines. (See section 111-580.)

Lot lines means the lines bounding a lot as defined herein.

Lot of record means a lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk or a parcel of land, the deed for which is recorded in the office of the county clerk prior to the adoption of the ordinance from which this chapter is derived.

Lot width means the width of a lot at the front building line. (See section 111-580.)

Main building means the building on a lot which are occupied by the primary user.

Mini-storage units means a structure containing separate, individual, and private storage spaces of varying sizes, leased or rented on individual leases generally for storage of items.

Mobile home means a structure for primary purposes of dwelling occupancy and so equipped as to be transportable as constructed (refer to manufactured home ordinance).

Mobile vendor means a vendor whose wares are set up temporarily on an occupied property whose owner has agreed in writing to allow access to bathroom facilities and parking as required by the business generated by the mobile vendor. A vendor shall be considered "mobile" if the structure used to vend goods and/or services from is capable of being removed from the site on a daily basis. A snow cone stand used seasonally, which is not built on-site, may be considered mobile if it contains provisions such as wheels or a hitch by which to remove the structure. Tent structures used for temporary or seasonal sales shall also be included.

Model Home/Model Home Sales Office means a dwelling unit within an approved residential subdivision that is temporarily used for the display of building design, construction quality, or furnishings, and as an on-site temporary office for the sale or marketing of homes or lots within the same subdivision or development. The dwelling unit shall remain a residential structure and shall be converted to residential occupancy upon completion of sales activity.

Motel means an inn or group of cabins designed for occupancy by paying guests; a hotel.

Multifamily dwellings. Same as dwelling, multifamily.

Neighborhood club (private) means quarters for a private neighborhood organization made up of residents of a specific area and may include social and recreational facilities for members only.

Noise, ambient level, means the general pressure and frequency level of noise in the vicinity of the premises on which a use is located, including traffic noise from nearby streets.

Nonconforming use means a building, structure or use of land lawfully occupied at the time of the effective date of the ordinance from which this chapter is derived, or amendments thereto, which does not conform to the use regulations of the district in which it is situated and has been occupied continuously without interruption or intent of discontinuation. [A nonconforming use is a lawful use that may continue in accordance with Texas Local Government Code §211.019.](#)

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

Open air business means any business, including, but not limited to, an auto mechanic use, that might be established without a formal building structure. (At a minimum, sanitary concerns must be addressed for workers of the business.)

Open space means 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 and porches.

Outdoor music establishment means an entity (structure or building) including businesses and non-businesses which include or initiate musical broadcasting or entertainment or amplified sound, music or spoken word or any sound, that goes beyond the confines of an enclosed building, or which can be heard beyond the building's property line even though the music, spoken word or sound is played, spoken or broadcast from inside the building.

Parking space means an area on a lot sufficient in size to store an automobile not less than nine (9) feet wide and 20 feet long connected either to a public street or alley by a driveway

no less than 10 feet wide or directly adjacent to a public alley and so arranged as to permit ingress and egress of the automobile at all times without moving any other automobile. The parking spaces, connecting driveways and public alley adjacent to the parking spaces for all businesses and residential uses shall be of asphalt or concrete surface.

Pharmacy means an establishment having at least one (1) licensed pharmacist as owner or employee which fills prescriptions on the premises for sale, and additionally sells non-prescription drugs, medicines and medical supplies.

Planned development district means ~~a previously approved zoning district established by ordinance for a specific property or development with customized land uses, development standards, plans, or conditions. Existing Planned Development Districts shall remain valid unless amended, repealed, or rezoned in accordance with this chapter. No new Planned Development Districts shall be created after the effective date of Ordinance No 2026-~~ the city commission of the City of Harlingen, Texas, after public hearing and proper notice to all parties affected and after recommendation from the city planning and zoning commission, may authorize the creation of planned development districts of a designated size, permitting, but not limited to, the following uses: shopping centers, residential developments, neighborhood services, medical centers, hospital, civic centers, community centers, office centers, recreation centers, industrial centers, or any combination thereof.

Planning and zoning commission means the agency appointed by the city commission as an advisory body to it, and which is authorized to recommend changes in the zoning and approved platting.

Portable building means a structure that was built off site and moved to a lot, tract, or a piece of land for use as storage or commercial use, and/or that does not have a concrete slab or a perimeter beam with footings, and is not habitable according to the housing code. All portable buildings shall be anchored ~~in accordance with applicable building codes.~~

Private garage means an accessory building housing vehicles owned and used by occupants of the main building; if occupied by vehicles of others, it is a storage space.

Quadruplex means four (4) attached dwellings in one (1) building in which each unit has two (2) open space exposures and shares one (1) or two (2) walls with adjoining units.

Railroad, track and right-of-way does not include railroad stations, sidings, team tracks, loading facilities, docks, yard or maintenance areas.

Recycling center means a business which collects, packages, and ships recyclable material.

Residence. Same as dwelling.

Residential zone means any lot or tract zoned with the designation of R-1, R-2, ~~M-1, M-2,~~ or MH primarily intended for residential living in single-family homes, duplexes, ~~multi-unit residences, townhouses, condominiums,~~ garden or patio homes or mobile homes.

Restaurant means any place where food is prepared and provided that is intended for service as individual portions. If a restaurant has a permit to sell alcoholic beverages for on-premises consumption as a secondary source of income, it will not be considered a bar/lounge. Whenever the City of Harlingen receives a complaint or has reasonable suspicion that a violation of this section exists, it may require any establishment serving alcoholic beverages as a secondary use to provide the city, within 30 days of notification, a verified audit for each quarter of the calendar year, showing the gross income derived from the sale of food and alcoholic beverages.

Retail store and shop means service offering all types of goods for sale from within the store and only new merchandise shall be permitted in an outside display on a temporary basis

(maximum two-week period biannually). Goods which are made and sold for outdoor use (i.e., lawn furniture, playground equipment, plants, etc.) shall be permitted in an outside display on a permanent basis.

Room means a building or portion of a building which is arranged, occupied or intended to be occupied as living or sleeping quarters which may include toilet and/or cooking facilities.

Rooming house. Same as lodging house.

Setback means distance between the lot line and the outermost building wall or post.

Sexually oriented business means a massage establishment, nude studio, nude or partially nude dancing establishment, nude modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or any other commercial enterprise of which the primary business is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. Evidence that a motel offers a sleeping room for rent for a period of time that is less than 10 hours shall be prima facie evidence that such motel is an "adult motel" as this term is used herein.

Sign means an outdoor advertising that is a structure or that is attached to or painted on a building or that is leaned against a structure for display on a premise.

Sign, business or pole, means those signs solely for the purpose of identifying and advertising the use or business on the property on which the sign is located.

Sign, church, schools and temporary, means name plates and bulletin boards for apartment houses, schools and churches, but not exceeding 32 square feet in area and not of a flashing, intermittent, revolving or similarly light type, also temporary signs pertaining to the sale or rental of property not exceeding 20 square feet in area and advertising property only for a use for which it is legally zoned.

Smoke shop means a retail establishment whose primary business is the sale, display, or offer for sale of cigarettes, cigars, tobacco products, e-cigarettes, vaping devices, e-cigarette products, vaping products, nicotine products, smoking accessories, or similar products, including pipe tobacco, hookah products, electronic cigarettes, vape pens, cartridges, liquids, consumable materials, and related accessories. This term does not include a grocery store, convenience store, pharmacy, general retail store, or other establishment where such products are sold only as an incidental portion of the business.

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Solar farm, means a large scale solar installation where photovoltaic (PV) panels, referred to as solar panels or other means of collecting solar energy, like concentrating solar system are used to harvest the sun's power.

Storage building means a building (including saf-t-box or mobile-mini containers) primarily for the

use or storage of goods and/or provisions not including hazardous chemicals or dangerous materials such as dynamite, etc.

Storage warehouse means a building used primarily for the storage of goods and materials by the owner of the goods, or operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

Story means the height between the successive floors of a building or from the top floor to the roof (or 10 feet if no physical floors are established such as in the case of a cellular tower).

Street means any thoroughfare or public driveway, other than an alley, 30 feet or more in width, which has been dedicated or deeded to the public for public use.

Street line means a dividing line between a lot, tract or parcel of land and a contiguous street; also called the right-of-way line.

Structural alterations means any change in the supporting member of a building such as a bearing wall, column, beams or girders.

Structure. Same as building.

Sun screen means a screen type wall constructed of masonry and/or cedar or redwood of sufficient strength to support said wall in a straight and unbroken condition. Said wall may be so constructed as to permit passage of reasonable current of air and/or light but adequate to shield the activity from the sight of occupants of adjacent property.

Temporary field offices means portable building or temporary building used as field office for a real estate development or construction project and subject to removal at the direction of ~~chief building official~~ chief building official.

Tennis or swim club means a private residential club with restricted membership, usually of less area than a country club, but including a clubhouse and swimming pool, tennis courts and similar recreational facilities, none of which are available to the general public.

Thoroughfare. Same as street.

Towing, wrecking or wrecked vehicle storage service means a service to tow motor vehicles which cannot be moved under their own power, such business shall include vehicle storage lot to store motor vehicles involved in accidents which cannot otherwise move under their own power. In no event shall any single stored vehicle remain on such storage lot for a period in excess of 90 days. No wrecking, salvage dismantling or sales of used auto parts shall be conducted from towing or wrecker service premises, or from the premises on which such vehicles are stored. Additionally, should any such vehicles remain on such lot for a period in excess of 90 days, such lot shall be deemed to be a "wrecking and salvage yard" under the provisions of this chapter.

Townhouse means ~~a single-family dwelling unit constructed as part of a series or group of attached dwelling units, where each unit is located on its own lot or platted parcel, has direct access to the exterior, and shares one or more common walls with adjoining units. A townhouse may include private yards, patios, courtyards, porches, balconies, garages, or other accessory features were permitted by this chapter. Common walls, fire separation, and construction shall comply with the International Residential Code where applicable, or the International Building Code where required, as adopted and amended by the City. No townhouse, or part thereof, shall encroach into a required sight visibility triangle as provided in §111-581, single family dwelling unit in which the building and/or walls may be erected to or on property line on the front, rear, and sides, in which the building has no opened space except a patio inside the walls and which is erected for the specific purpose of providing a location for inside living. Townhouses shall be built in a series or group of attached units with property lines separating such units. The common wall shall be constructed as set out in the International Building Code, as adopted and amended by the city, regarding separation between townhouses. No townhouse, or part thereof, shall encroach into a restricted area as defined in section 40-101.~~

Trailer park means an area designated, arranged or used for the parking or storing of two (2) or more travel trailers which are occupied or intended for occupancy as living quarters by individuals or families.

Travel trailer (recreational vehicle) means a trailer equipped to be transported and used for temporary

(+) occupancy; in size not to exceed eight (8) feet in width and not to exceed 40 feet in length.

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Triplex means a building containing three (3) dwelling units, each of which has direct access to the outside or to a common hall.

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Wrecking and salvage yard means any property on which wrecking, salvage, dismantling or sales of used auto parts shall be conducted from towing or wrecker service premises, or from the premises on which such vehicles are stored; a yard on which inoperable vehicles remain for a period in excess of 90 days.

Yard means an open space other than a court, on the lot in which a building is situated and which is not obstructed from a point 30 inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special architectural features.

Yard, front, means an open, unoccupied space on a lot facing a street extending across the front of the lot between the side lot lines and from the main building to the front lot or street line and the main building as specified for the district in which it is located. (See section 111-580.)

Yard, rear, means an open, unoccupied space, except for accessory buildings as herein permitted, extending across the rear of a lot from one side lot line to the other side lot line and having a depth between the building and rear lot line as specified in the district in which the lot is situated. (See section 111-580.)

Yard, side, means an open, unoccupied space on one (1) 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 lot line. (See section 111-580.)

Zoning map, City of Harlingen, means the official certified map upon which the boundaries of the various zoning districts are drawn and which is an integral part of this chapter.

(Code 1997, § 159.003; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 99-66, adopted 10/20/1999; Ordinance 00-89, adopted 11/1/ 2000; Ordinance 01-16, adopted 2/21/2001; Ordinance 02-39, adopted 5/1/2002; Ordinance 03-31, adopted 5/21/2003; Ordinance 05-11, adopted 3/16/2005; Ordinance 07-27, adopted 4/18/2007; Ordinance 08-29, adopted 4/2/2008; Ordinance 12-14, § I, adopted 3/7/2012; Ordinance 14-33, § I, adopted 9/3/2014; Ordinance 2018-32, § I (Exh. A), adopted 9/5/2018; Ordinance 2023-43, § I, adopted 10/18/2023)

§-111-2. Penalty.

Any person violating any of the provisions of this chapter shall, upon a conviction be guilty of a misdemeanor. 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 violation of the terms of the chapter, to bring suit in such courts having jurisdiction hereof and obtain such remedies as may be available at law and in equity in the protection of the rights of such property owners.

(Code 1997, § 159.999; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§-111-3. Commonly used acronyms.

Acronyms Used by Planning and Development Department	
APA	American Planning Association
CBA	Construction board of adjustments
CBO	Chief building official Chief building official
CD	Community development
CDBG	City development block grant
CM	City manager
CO	Certificate of occupancy
TCO	Temporary certificate of occupancy
RGVMPO	Rio Grande Valley Metropolitan planning organization Planning Organization
P & D	Planning and development department
P & Z	Planning and zoning commission
SOB	Sexually oriented business
SUP	Special use permit
TSC	Traffic safety council Safety Council
TxDOT	Texas Department of Transportation
TX APA	Texas Chapter of the American Planning Association
UE	Utility easement
ZBA	Zoning board of adjustments
Other lingo and information:	
Comprehensive plan = Harlingen = Harlingen Horizon – A City on the Rise Comprehensive Plan	
Harlingen is a Home Rule City.	

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(Code 1997, Ch. 159, app. I)

§-111-4. Purpose and scope.

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

~~(a)~~

~~(a)~~ The changing use of land requires that this chapter be modified from time to time to accommodate changes in techniques and development standards that have been adopted by the citizenry of Harlingen over the years.

~~(b)~~

~~(c)~~ The original zoning ordinance was adopted on March 12, 1940. That ordinance was repealed by the adoption of new zoning ordinance No. 74-36 on November 20, 1974. It has been modified and updated on several occasions for various reasons.

~~(e)~~

(Code 1997, § 159.001; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 03-31, adopted 5/21/2003)

§-111-5. Relationship to the Harlingen Horizon – A City on the Rise Comprehensive Plan.

(a) The regulations contained herein have been modified in accordance with a comprehensive land use planning program for the orderly growth and development of the city. This chapter has been modified to incorporate and implement the goals, objectives, and policies found in the document entitled "~~Harlingen Horizon~~Harlingen Horizon – A City on the Rise Comprehensive Plan." Hard copies of the full comprehensive plan and plan summaries are available from the planning and development department for a fee.

(Code 1997, § 159.002; Ordinance 97-35, adopted 7/2/1997)

§-111-6, through § 111-278. (Reserved)

ARTICLE II ADMINISTRATION

~~§ 111-29. Purpose.~~

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§ 111-28. Administrative Authority and Responsibilities.

(a) Planning and development director.

- (1) The planning and development director shall be responsible for the administration, coordination, and overall operation of the planning and development department. The director shall supervise departmental staff, establish administrative procedures, and oversee the implementation of this chapter and related regulations.
- (2) The planning and development director shall have authority to make administrative interpretations of this chapter, including determinations related to permitted uses, development standards, and procedural requirements, except where such authority is expressly assigned to another official or body. Such interpretations shall be subject to applicable appeal procedures as provided in this chapter.

(b) Chief building official.

- (1) The chief building official shall administer and enforce all adopted building, fire, and related construction codes. The Chief building official shall have authority over technical determinations related to building code compliance, including occupancy classification, inspections, and the issuance of certificates of occupancy.
- (2) The chief building official shall ensure that all construction and occupancy comply with applicable life-safety requirements and building regulations. Determinations made under the adopted building codes shall be subject to applicable appeal procedures.

(c) Coordination of Review.

- (1) The Planning and development director and chief building official shall coordinate the review of applications to ensure compliance with both zoning and building code requirements. Zoning review shall be limited to verification that the proposed use and development comply with this chapter, while building code review shall address construction, safety, and occupancy requirements.
- (2) The review process shall be coordinated to avoid duplication of requirements, inspections, or approvals, and to promote efficient and timely permitting.

(d) Administrative Approvals and Determinations.

- (1) The Planning and development director may approve administratively those applications and permits expressly authorized by this chapter, including site plans, changes of use, and other minor development actions that do not require a public hearing.
- (2) The Director may also issue written interpretations of zoning provisions where necessary to clarify the application of this chapter.

(e) Conflicts and Interpretation.

- (1) In the event of a conflict between zoning requirements and building code requirements, each shall be applied within its respective scope.
- (2) The Chief building official shall have authority to interpret and enforce the adopted building codes, and the Planning and development director shall have authority to interpret and administer zoning regulations. All such determinations shall be subject to applicable appeal procedures.

(f) Delegation of Authority.

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(1) The Planning and development director and Chief building official may delegate their respective administrative duties to qualified staff, provided such delegation is consistent with applicable laws and adopted codes.

(g) Appeals.

—Administrative decisions made under this section may be appealed in accordance with the applicable provisions of this chapter.

(1)

§ 111-2930. Certificate of occupancy and compliance.

(a) No building or structure shall be occupied or used, and no land shall be used or changed in use, until a certificate of occupancy and compliance has been issued by the chief building official, confirming compliance with this chapter and all applicable building, fire, and health codes.

(b) A certificate of occupancy shall be required when:

(1) A building or structure is erected, constructed, reconstructed, or structurally altered;

(2) A change in use results in a different zoning classification;

(3) A change in occupancy classification occurs as defined by the adopted building codes;

(4) There is an increase in the intensity of use; or

(5) There is a change in ownership or tenancy, for the purpose of maintaining accurate occupancy records.

(c) A certificate of occupancy issued solely due to a change in ownership or tenancy shall be processed administratively and shall not require additional zoning review unless a change in use or intensity is proposed.

(d) A certificate of occupancy shall be issued upon determination by the chief building official that the building or use complies with all applicable regulations. The certificate at a minimum shall identify the approved use and occupancy classification.

(e) The chief building official shall enforce all applicable building codes, including occupancy classifications and life-safety requirements. Zoning review shall be limited to verification that the proposed use is permitted and complies with applicable development standards.

(f) A change in occupancy classification under the adopted building codes shall be considered a change in use for purposes of this chapter, where such change results in a different zoning classification or increased intensity.

(g) Existing buildings, as defined by the International Existing Building Code (IEBC), undergoing a change in ownership or tenancy without a change in use or occupancy classification shall not be required to comply with new construction standards except as required by the adopted building codes.

(h) The chief building official may issue a temporary certificate of occupancy (TCO) for a building or portion thereof that is safe for occupancy, subject to conditions necessary to protect public health, safety, and welfare. The planning and development director may establish administrative procedures for coordination.

(i) The issuance or denial of a certificate of occupancy shall not affect the lawful status of a nonconforming use, which may continue in accordance with applicable state law.

(a) No building hereafter erected, converted or structurally altered shall be used, occupied or changed in use, and no land may be used, nor shall any basic change of use in land or structure be made, until a certificate of occupancy and compliance shall have been issued by

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the chief building official of the city stating that the building or the proposed use of land or building complies with provisions of this chapter and other building laws of the city.

- (b) ~~A certificate of occupancy and compliance shall be applied for coincident with the application for a building permit and will be issued within 10 days after the completion of the erection, alteration or conversion of such building or land, provided such construction or change has been made in complete conformity to the provisions of this chapter. All existing or hereafter created noneonforming uses shall obtain a certificate of occupancy within six (6) months of the effective date of the ordinance from which this chapter is derived. An occupancy permit shall be considered evidence of the legal existence of a noneonforming use as contrasted to an illegal use in violation of this chapter.~~

- (j) ~~AA record of all~~ certificates of occupancy shall ~~state that the building or proposed use of a building or land has complied with all the building or health laws and ordinances and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the~~ be maintained by the chief building official, and ~~made available~~ copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the land or building affected.

(e)
(Code 1997, § 159.015; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§ 111-30. Completion of building under construction.

- (a) ~~Nothing herein in this chapter contained shall require any changes to the~~ in plans, construction, or designed use of a building lawfully actually under construction at the time of the passage adoption of the ordinance from which this chapter is derived, provided construction is diligently pursued. The chief building official, with concurrence from the planning and development director, may grant extensions where delays are caused by circumstances beyond the control of the applicant, and which the entire building shall be completed within one (1) year from the date of the passage of the ordinance from which this chapter is derived.

(Code 1997, § 159.026; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§ 111-31. Amendments.

- (a) Initiation of amendments.

~~(1) Amendments to this chapter may be initiated by the city commission, the planning and zoning commission, or a~~ Any person or corporation having a proprietary interest in any property within the city may petition the city commission for a change or amendment to the provisions of this chapter, or the planning and zoning commission may, on its own motion, or on request from the city commission, institute a study and proposal for changes and amendments in the public interest.

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- (b) Authority.

~~(1) The city commission may from from time to time amend, supplement, or change the zoning regulations, district by ordinance, the boundaries, or provisions of this chapter by~~

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~~ordinance, in accordance with Texas Local Government Code Chapter 211, -of the districts or the regulations herein established as provided by the statutes of the state.~~

~~(1)~~

~~(2) Before taking any action on any proposed amendment, supplement or change, the city commission shall submit the same to the planning and zoning commission for its recommendation and report shall make a preliminary report and hold at least one (1) public hearing on that report before submitting a final report to the city commission in accordance with Texas Local Government Code Section 211.007(b).~~

~~(4)~~

~~(c) Public hearing and notice requirements.~~

~~(b) The planning and zoning commission shall make a preliminary report and hold public hearings on that report before submitting a final report to the city commission. The city commission may not hold a public hearing until it receives the final report of the planning and zoning commission unless the city commission, by ordinance, provides that a public hearing is to be held, after the notice required by Texas Local Government Code~~

~~(1) Public hearings shall be conducted in accordance with Texas Local Government Code Section 211.006, 211.007, 211.0073, and 211.020, as applicable.~~

~~(2) Published notice.~~

~~(i) Notice of the time and place of the public hearing before the planning and zoning commission shall be published in an official newspaper of general circulation in the city and in the city website at least ten (10) days prior to the date of the planning and zoning commission public hearing.~~

~~(ii) Notice of the time and place of the public hearing before the city commission shall be published in an official newspaper of general circulation in the city and in the city website at least fifteen (15) days prior to the date of the city commission public hearing.~~

~~(3) Written notice.~~

~~(i) Written notice shall be sent to property owners within two hundred (200) feet of the property subject to a proposed zoning change at least ten (10) days before the planning and zoning commission hearing date in accordance with Texas Local Government Code Section 211.007(c).~~

~~(e) § 211.006(a) jointly with a public hearing required to be held by the planning and zoning commission. In either case, the city commission may not take action on the matter until it receives the final report of the planning and zoning commission. Before the 15th day before the hearing date, written notice of each public hearing before the planning and zoning commission on a proposed change in a zoning classification shall be published in the manner provided by Texas Local Government Code § 211.006:~~

~~a. In the official newspaper of circulation of the city, and~~

~~b. On the City's official website.~~

~~(ii) Before the 10th day before the hearing date, written notice of each public hearing before the planning and zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. N-otiThe ccanotice may be served~~

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by its deposit in the municipality, properly addressed with postage paid, in the United States mail.

(4) School District written notice.

- (i) When the proposed amendment affects residential or multifamily zoning, written notice shall be provided to each school district in which the property is located at least ten (10) days prior to the planning and zoning commission public hearing, in accordance with 211.007(c-1).
- (ii) Notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail.

(5) Notice Sign.

- (i) A notice sign of at least twenty-four by forty-eight inches (24"x 48") shall be posted by the applicant on the subject property, or on a public right-of-way if the rezoning involves multiple properties, at least ten (10) days prior to the planning and zoning commission public hearing, in accordance with 211.0073.
- (ii) Signs must be removed by the applicant no later than seven (7) days after final action by the city commission.
- (iii) Alternatively, the applicant may request the planning and development department to post the required notice for a fee as prescribed in §111-35, which shall be paid at the time the application is submitted.

(6) Electronic notice.

- (i) Notice may be provided electronically as permitted by Texas Local Government Code 211.020.

(d) Types of Zoning Amendments.

- (1) For the purposes of protest and voting requirements, zoning amendments shall be classified in accordance with Texas local Government Code 211.0061 as follows:

(i) Comprehensive zoning change.

- a) A zoning amendment that applies broadly to multiple properties or districts and has the effect of modifying zoning regulations on a citywide or district-wide basis, including changes that allow additional residential development.

(ii) Non-comprehensive zoning change.

- a) A zoning amendment that applies to a specific property or limited geographic area does not meet the criteria of a comprehensive zoning change.

(2) Determination.

- (i) The planning and development director, in consultation with the City Attorney shall make an administrative determination regarding whether a proposed amendment constitutes a comprehensive or non-comprehensive zoning change under applicable law.

(e) Protest Procedures.

- (1) Protests to proposed zoning amendments shall be submitted and processed in accordance with Texas Local Government Code 211.0061 and the following:

(i) Eligibility.

- a) A protest may be filed by the owners of property subject to the amendment or located within two hundred (200) feet of the subject property.

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(ii) Form.

- a) A protest shall be in writing and include the name, address, and signature of the property owner, identification of the property, and the reason for the protest.

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(iii) Filing deadline.

- a) A protest must be filed with the planning and development department no later than 4:00 p.m. on the fifth (5th) business day prior to the City Commission public hearing.

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(iv) Withdrawal.

- a) A protest may be withdrawn in writing at any time prior to the close of the City Commission public hearing.

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(v) Determination of validity.

- a) The planning and development department shall review protests for completeness.
- b) The City Commission shall make the final determination regarding the validity and effect of any protest.

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(f) Effect of protest.

(1) If a valid protest is filed:

- (i) A three-fourths (3/4) vote of all members of the city commission shall be required for approval of a non-comprehensive zoning change subject to protest; or
- (ii) A majority vote shall be required for approval of a comprehensive zoning change, in accordance with Texas Local Government Code 211.0061.

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(g) Decision criteria.

(1) In making a recommendation or decision on a zoning amendment, the planning and zoning commission and city commission shall consider:

- (i) Consistency with the comprehensive plan
- (ii) Compatibility with surrounding uses
- (iii) Availability of public infrastructure and services
- (iv) Traffic circulation, access, and mobility impacts
- (v) Impacts on public health, safety and welfare
- (vi) The extent to which the proposed amendment addresses changing conditions or community needs

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(h) Resubmittal of applications.

(1) A rezoning or special use permit application denied by the City Commission may be resubmitted as follows:

- (i) After thirty (30) days if substantially revised; or
- (ii) After one hundred eighty (180) days, if not substantially revised.

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(2) The planning and development director shall make a determination regarding whether an application is substantially revised.

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(i) Appeals.

(1) Any person aggrieved by a recommendation of the Planning and Zoning Commission may appeal to the City Commission by filing a written petition with the City Secretary within ten (10) business days after the final decision.

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(j) Administrative procedures.

(1) The planning and development director may establish administrative procedures necessary to implement this section, including application requirements, submittal

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deadlines, notice procedures, and review processes, provided such procedures are consistent with this chapter and applicable law.

If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given in the manner provided by Texas Local Government Code § 211.006(a). Alternatively, such notice may be delivered electronically in accordance with Section 211.020 of the Texas Local Government Code.

(2) — Before the 10th day before the hearing date, written notice of each public hearing before the planning and zoning commission on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in classification is proposed is located. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. Alternatively, such notice may be delivered electronically in accordance with Section 211.020 of the Texas Local Government Code.

(3) — Before the 10th day before the hearing date, written notice on a sign of at least twenty-four by forty-eight inches (24"x48") shall be posted on the subject property in the manner provided by Texas Local Government Code Section 211.0073.

(d) — In accordance with Texas Local Government Code Section 211.0061, certain types of zoning changes may be protested by property owners. There are two (2) types of changes identified in Section 211.0061:

Comprehensive Zoning Changes

A proposed "comprehensive zoning change" means a proposal to:

- a. — Change an existing zoning regulation that will have the effect of allowing more residential development than the previous regulation and will apply uniformly to each parcel in one or more zoning districts; or
- b. — Adopt a new zoning code or zoning map that would apply to the entire municipality; or
- c. — Adopt a zoning overlay district that would have the effect of allowing more residential development than allowed without the overlay and would include an area along a major roadway, highway, or transit corridor.

Non-Comprehensive Zoning Changes

A proposed "non-comprehensive zoning change" means a proposed change to a zoning boundary or regulation that does not meet the criteria of (e)(1)(a) through (e) above.

(e) — A protest against a proposed non-comprehensive change to a zoning regulation or boundary, as described in (e)(2) above, must be written and signed by the owners of:

At least 20 percent of the area of the lots or land covered by the proposed change;
Except as provided by (3) below, at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area; or
At least 60 percent of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area if the proposed change:

- a. — Has the effect of allowing more residential development than the existing zoning regulation or district boundary, and
- b. — Does not have the effect of allowing additional commercial or industrial uses, unless the additional use is limited to the first floor of any residential development and does not exceed 35 percent of the overall development.

If a proposed change to a zoning regulation or boundary is protested in accordance with (f) above, the proposed change must receive, in order to take effect, the affirmative vote of at least:

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Three-fourths of all members of the city commission, for a protest relating to a proposed change meeting the criteria of (e)(2); or

A majority of all members of the city commission for a protest relating to a proposed change meeting the criteria of (e)(1).

A written protest against a proposed amendment, supplement, or change to a zoning regulation or boundary may be signed, acknowledged, and filed with the P&D by the owners of property encompassed within or adjacent to the area of the proposed change, in accordance with (i) below: Written protests shall be subject to the following requirements:

All protests must be submitted to the P&D in writing. Such written protest(s) shall include the zoning case number, the name of the protesting property owner, the address(es) or property description(s) of the property for which the property owner is asserting a protest, the reasons for the property owner's protest such as the zoning classifications or uses to which the property owner is opposed, and the signature of the protesting property owner(s).

The protest must be filed with the P&D before 5:00 p.m. of the fourth business day immediately preceding the date advertised for the city commission public hearing in the statutory notice published in the official newspaper and website of the city. A protest sent through the mail must be received by the P&D before the deadline.

In all cases where a protest has been properly signed pursuant to this division, the city shall presume that the signatures appearing on the protest are authentic and that the persons whose signatures appear on the protest are either owners of the property or authorized to sign on behalf of one or more owners as represented. Upon the advice of the City Attorney, this presumption shall not be followed in a specific case based on evidence presented.

A person may by written request withdraw his or her signature from the protest at any time prior to the close of the public hearing for the zoning case. The provisions of subsection (i)(1) governing the form and filing of protests apply equally to withdrawals.

e. If the withdrawal of an owner's signature from a protest reduces the percentage of land area ownership protesting the zoning change to less than the percentage of the total area of land required under (f) above, a modified vote of the city commission shall not be required for approval of the zoning change.

In the event that multiple protests and withdrawals are filed on behalf of the same owner, the instrument with the latest date and time of execution controls.

At any time before city commission action on a zoning case, the filing deadline for a protest is automatically extended whenever the zoning case is postponed or continued to a later date.

(f) If a rezoning or a special use permit request for a particular tract of property is made to the city commission after standard planning and zoning procedure, and such request, for whatever reason, fails to be enacted by the city commission by passing an ordinance pursuant to this chapter, such rezoning or special use permit request shall not be resubmitted to the planning and zoning commission or the city commission for an intervening six (6) month period.

(g) Any persons, jointly or severally, aggrieved by any decision of the planning and zoning commission may present to the city commission a petition, setting forth that such decision is unjust, in whole or in part, and specifying the grounds of injustice. Such petition shall be presented to the city secretary within 10 days after the final decision of the planning and zoning commission, and not thereafter, for notification and calling of a public hearing to hear and act on the appeal.

(Code 1997, § 159.017; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 2020-07, § I, adopted 3/4/2020)

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§ 111-32. Zoning of newly annexed territory.

(a) Establishment of initial zoning.

- (1) Upon annexation of territory into the city, the city commission shall establish zoning classifications for the annexed area.
- (2) Zoning may be established concurrently with annexation or at a subsequent time, as permitted by law.

(b) Public hearing and notice.

- (1) The establishment of zoning for newly annexed territory shall comply with the public hearing and notice requirements of Texas Local Government Code 211.006.
- (2) The city commission shall hold at least one public hearing on the proposed annexation and initial zoning.
- (3) Notice of the public hearing shall be published in the official newspaper of general circulation of the city prior to the hearing.
- (4) Notice of the public hearing shall be posted on the city's official website prior the hearing.
- (5) Written notice to surrounding property owners may be provided where feasible based on the availability of ownership information in the municipal tax roll.
- (6) The proposed zoning classification shall be referred to the planning and zoning commission for review, public hearing, and recommendation prior to final action by the city commission.

(c) Applicability of amendment procedures.

- (1) The procedures set forth in 111-31 shall apply to the establishment of zoning for annexed territory, except as provided in this section.

(d) Protest provisions.

- (1) The establishment of initial zoning upon annexation shall not be considered a rezoning. Accordingly, the protest provisions of Texas Local Government Code 211.0061 shall not apply to the initial zoning of annexed territory.

(e) Subsequent zoning changes.

- (1) Any zoning amendment affecting annexed territory after the initial establishment of zoning shall be subject to all procedures, notice requirements, and protest provisions set forth in 111-31.

(f) Interim development controls.

- (1) Until zoning is established for annexed territory, no development or use of land shall occur except:
 - (i) As permitted under applicable interim regulations; or
 - (ii) As authorized by the city commission.

(g) Consistency with comprehensive plan.

- (1) Zoning assigned to annexed territory shall be consistent with the comprehensive plan to the extent practicable.

The planning and zoning commission shall hold a public hearing on all proposed annexations and shall, at the same time, make a recommendation to the city commission for zoning of the territory upon annexation consistent with the purpose of this chapter. Concurrent with the adoption of the annexation chapter, the city commission shall adopt the zoning of the territory being annexed.

- (a) In an area newly annexed:

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~~No person shall erect, construct or proceed or continue with the erection, or construction of any building or structure or add to any building or structure or cause the same to be done in any newly annexed territory to the city without first applying for and obtaining a building permit or certificate of occupancy therefore from the chief building official or the city commission as may be required herein.~~

~~(1) No permit for the construction of a building or use of land shall be issued by the chief building official other than a permit which will allow the construction of a building permitted as a use by right or with a special use permit as indicated in section 111-62.~~

~~(2) An application for a permit for any other use than that specified in subsection (b)(2) of this section shall be made to the chief building official and by him referred to the board of adjustment for final disposition in compliance with article XVI of this chapter.~~

~~(Code 1997, § 159.018; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 01-16, adopted 2/21/2001; Ordinance 07-27, adopted 4/18/2007)~~

§ 111-33. Classification of new and unlisted uses.

~~It is recognized that new types of land uses will develop and forms of land use not anticipated may seek to locate in 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:~~

(a) Purpose.

(1) The purpose of this section is to establish a consistent and efficient process for classifying land uses not expressly listed in this chapter, while ensuring such determinations are based on objective criteria and are compatible with the intent of this chapter.

(b) Applicability.

(1) When a proposed use is not specifically listed in 111-62, the planning and development director shall classify the use in accordance with this section prior to the issuance of any permit or approval.

(c) Administrative determination.

(1) The planning and development director shall have the authority to classify unlisted uses based on their similarity to uses identified in 111-62. The director's determination shall be:

- (i) In writing;
- (ii) Based on the criteria set forth in subsection 111-33 (d);
- (iii) Maintained as part of the official records of the city.

(d) Classification criteria.

(1) In determining the appropriate classification of an unlisted use, the planning and development director shall consider the following:

- (i) The nature and character of the proposed use;
- (ii) Operational characteristics, including hours of operation, traffic generation, noise, lighting, emissions, and outdoor storage;
- (iii) The scale and intensity of the use relative to listed uses;

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- (iv) Functional similarity to uses listed in 111-62; and
- (v) Potential impacts on public health, safety, and welfare.

(e) Determination of zoning district.

- (1) Once classified, the unlisted use shall be permitted only in zoning districts where the most similar listed use is permitted, and shall be subject the same conditions, limitations, and standards applicable to such use.

(f) Limitations on administrative authority.

(1) The planning and development director shall not:

- (i) Establish a use that is materially different in character or impact from any listed use;
- (ii) Authorize the use that would otherwise be prohibited in all zoning districts; or
- (iii) Waive or modify any development standards or requirements of this chapter.

- (2) If the director determines that a proposed use cannot be reasonably classified, the use shall be deemed prohibited unless and until this chapter is amended.

(g) Referral to Planning and Zoning Commission.

- (1) The planning and development director may, at his or her discretion, refer any classification determination to the planning and zoning commission for review and recommendation.
- (2) The city commission may also require review of a classification determination where the use presents significant policy considerations.

(h) Appeals.

- (1) Any determination made under this section may be appealed in accordance with the applicable provisions of this chapter.

~~(1) — The chief building official, or duly appointed representative, shall refer the question concerning any new or unlisted use to the planning and zoning commission requesting an interpretation as to the zoning classification into which use should be placed. The referral of the use interpretation questions 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 or 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.~~

~~(2) — The planning and zoning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning districts within which such use should be permitted.~~

~~(3) — The planning and zoning commission shall transmit its findings and recommendations to the city commission as to the classification proposed for a new or unlisted use. The city commission shall by resolution approve the recommendation of the planning and zoning commission or make such determination concerning the classification of such use as is determined appropriate.~~

(Code 1997, § 159.019; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§ 111-34. Compliance required.

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

(Code 1997, § 159.020; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§ 111-35. Fees.

(a) Fees are found in the city fee schedule in chapter 18.

§ 111-36. Fees Waivers.

(a) The city manager may waive or reduce fees under this chapter upon recommendation of the planning and development director.

(b) A request for a fee waiver shall:

- a. Be submitted in writing by the applicant;
- b. Identify the specific fee(s) requested to be waived or reduced; and
- c. Provide justification demonstrating that the waiver serves a public purpose or provides a community benefit.

(c) In evaluating a request for a fee waiver, the planning and development director may consider:

- d. Whether the project provides a public benefit, including but not limited to affordable housing, economic development, or public infrastructure improvements;
- e. Whether the fee would create an undue burden relative to the scale or nature of the project; and
- f. Any other factors relevant to the public health, safety, and welfare.

(d) Any recommendation by the planning and development director shall be forwarded to the city manager for final action.

(e) In evaluating a request forwarded by the planning and development director, the City Manager may consider:

- a. Whether the project serves a public purpose or provide a community benefit;
- b. Is consistent with adopted city policies, including economic development or housing goals; and
- c. Will not adversely impact the city's ability to recover costs.

(f) Approval of a fee waiver or reduction shall require action by the city manager and may be subject to conditions.

(g) Any waivers exceeding \$ _____ shall require city commission approval.

(Code 1997, § 159.021; Ordinance 97-35, adopted 7/2/1997; Ordinance 01-16, adopted 2/21/2001; Ordinance 07-27, adopted 4/18/2007)

§ 111-37. through § 111-58. (Reserved)

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ARTICLE III ZONING DISTRICTS

§ 111-59. Established.

- (a) The city is hereby divided into 153 zoning districts. The use, height, and area regulations in each district, as set out herein, are uniform throughout each district. The 43-15 districts established herein shall be known as:

Abbreviated Designation	Full Zoning District Designation
<u>N</u>	Not Designated
<u>AG</u>	<u>Agricultural</u>
<u>OS</u>	<u>Open Space/Recreation</u>
<u>R-1</u>	<u>Low Density Residential</u> <u>Residential, Single-Family</u>
<u>R-2</u>	<u>Residential, Duplex</u> <u>Medium Density Residential</u>
<u>MFM-1</u>	<u>Residential, Triplex and Quadruplex</u> <u>Multifamily</u>
<u>MH</u>	<u>Residential, Mobile Home</u>
<u>MU-NPD</u>	<u>Neighborhood Mixed Use</u> <u>Planned Development District</u>
<u>MU-CO</u>	<u>Community Mixed Use</u> <u>Offices – Professional and Business Administration</u>
<u>C-1NS</u>	<u>Neighborhood Neighborhood Commercial</u> <u>Services</u>
<u>C-2GR</u>	<u>General Commercial</u> <u>General Retail</u>
<u>E</u>	<u>Employment</u>
<u>I</u>	<u>Institutional</u>

LI	Light Industrial
HI	Heavy Industrial

The zoning districts established by this article ~~in order to accomplish the purpose~~ are outlined are generally defined as follows:

(b)

~~(1) N - Not designated. Areas not yet assigned a zoning classification, including and/or newly annexed territory (subdivided. Development shall be limited to uses permitted in section 111-62 or as otherwise authorized by this chapter.); except only for uses listed in section 111-62.~~

(1)

~~(1) Residential, single family. Area for development primarily of single family units, but with special uses as indicated in section 111-62.~~

~~(2) Residential, duplex. Area for development of duplex family units on lots no smaller than 6,000 square feet, but with special uses as indicated in section 111-62. AG - Agricultural. Areas intended for traditional agricultural uses, including the cultivation of crops, raising of livestock, and related support uses. The district may also include complementary uses such as large-lot single-family residential, barns or stables, and landscape nurseries.~~

~~(3) OS - Open Space/Recreation. Areas intended for public parks, open space, and recreational uses, including both active and passive recreation.~~

~~(4) R-1 - Low Density Residential. Areas intended for single-family detached residential development consisting of one dwelling unit per lot, consistent with traditional neighborhood patterns.~~

~~(2) R-2 - Medium Density Residential. Areas intended for moderate density residential development, including duplex family units, patio homes, and townhomes, in a neighborhood-oriented setting.~~

(5)

~~(2) Residential, patio home. Area for development of single family and duplex family units on lots no smaller than 4,000 square feet, but with special uses as indicated in section 111-62.~~

~~(3) Residential, triplex and quadruplex. Area for development primarily of multifamily units of four or less, but with special uses as indicated in section 111-62. MF - Residential, Multifamily. Areas intended for multifamily residential development consisting of three (3) or more development primarily of multi-unit apartment buildings in excess of four units, condominiums, and connected townhouses dwelling units, including apartments and condominiums, and should be located near major corridors or commercial areas, and with specific additional uses indicated in section 111-62.~~

(6)

~~MH - Mobile Home Residential, mobile home. Districts for permanent location and use of mobile homes as single-family dwelling units and with specific additional uses as indicated in section 111-62.~~

(7)

~~(8) Planned development district MU-N - Neighborhood Mixed Use. Area of a designated and approved size with an all-inclusive plan for development which may include any two or more classes of uses, which shall be filed as part of chapter 111 and shall be~~

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~~developed as outlined in section 111-332. Areas intended for small-scale mixed-use development integrating residential and neighborhood-serving commercial uses, generally limited in height and intensity.~~

- ~~(3) MU-C – Community Mixed Use. Areas intended for larger-scale mixed-use development combining residential, commercial, and employment uses along major corridors and activity centers.~~

~~(9)~~

- ~~(4) C-1 - Offices: professional and business administration. Area designed primarily for use as administrative offices and professional offices, and specific additional uses as indicated in section 111-62.~~

- ~~(5)(10) Neighborhood services Commercial. Areas intended for small-scale commercial uses that primarily serve the surrounding residential neighborhood designed to serve the domestic needs of the immediate neighborhood and with specific additional uses indicated in section 111-62.~~

- ~~(11) General C-2 – General Commercial retail. Areas intended for a broad range of commercial uses, including retail, service, and regionally serving business, typically located along major roadways, designated for the primary purpose of retail sales and specific additional uses indicated in section 111-62.~~

- ~~(12) E – Employment. Areas intended for office, professional services, research and development, and light industrial uses with minimal external impacts.~~

- ~~(6)(13) I - Institutional. Areas intended for public and quasi-public uses, including schools, churches, government facilities, and similar uses.~~

- ~~(7)(14) LI - Light industry Industrial. Areas intended for light manufacturing, assembly, warehousing, and distribution uses and processes which do not emit detectable dust, odor, smoke, gas, or fumes beyond the bounding property or generate noise or vibration at the boundary of the LI District which is generally perceptible as noise in the adjacent area.~~

- ~~(15) HI - Heavy industrial. Areas used primarily for industry intended for intensive industrial uses that may generate noise, odor, and other impacts; require separation from residential and commercial uses; does not fall into light industry district designation; and which is not prohibited by law.~~

(c) Transition pending zoning map update.

- (1) The zoning districts established by this section are adopted as the City's updated zoning district framework and shall apply to properties only when such districts are assigned by ordinance through the official zoning map or a zoning map amendment.
- (2) Adoption of this section shall not, by itself, amend the official zoning map, rezone any property, change the zoning classification of any property, or convert any property from an existing zoning district to a newly established zoning district.
- (3) Existing zoning classifications shown on the official zoning map shall remain in effect until amended by subsequent ordinance in accordance with this chapter and applicable state law.
- (4) Where a provision of this chapter refers to a newly established zoning district before the official zoning map has been comprehensively updated, the Planning and Development Director may interpret the provision based on the most comparable existing zoning district, use category, or development standard, provided such interpretation shall not

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authorize a use, density, development standard, or zoning entitlement that is not otherwise allowed under the property's existing zoning classification.

- (5) The City may initiate a comprehensive zoning map update at a future date to implement the districts established by this section. Such zoning map update shall be processed separately in accordance with all applicable notice, public hearing, recommendation, protest, voting, and adoption requirements.

~~(8)~~

(Code 1997, § 159.030; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 07-27, adopted 4/18/2007)

§ 111-60. Zoning map adoption and revisions.

The boundaries of the zoning districts established herein are and shall be those delineated upon the zoning map, as said map is herewith adopted as part and parcel of this chapter, and as said map is attached to Ordinance No. 97-35 and identified as Appendix F of Ordinance No. 97-35.

(a) Official zoning map.

- (1) The boundaries of zoning districts within the City shall be as shown on the official zoning map of the City of Harlingen, as amended from time to time by ordinance. The official zoning map, together with all district boundaries, notations, references, and amendments shown thereon, is adopted and made a part of this chapter.

(b) No automatic zoning map amendment.

- (1) Adoption or amendment of the text of this chapter shall not, by itself, amend the official zoning map, rezone any property, change the zoning classification of any property, or convert any property from an existing zoning district to a newly established zoning district, unless such change is expressly adopted by ordinance as a zoning map amendment.

(c) Existing zoning classifications remain in effect.

- (1) All property shall retain the zoning classification shown on the official zoning map until the City Commission adopts a zoning map amendment by ordinance in accordance with this chapter and applicable state law.

(d) Future zoning map update.

- (1) The City may initiate a comprehensive zoning map update at a future date to implement the zoning districts established by this chapter and to further align the official zoning map with the Comprehensive Plan. Any such zoning map update shall be processed separately and shall be subject to all applicable notice, public hearing, recommendation, protest, voting, and adoption procedures required by this chapter and state law.

(e) Official record and working map.

- (1) The City Secretary shall maintain the official ordinance records adopting and amending zoning district boundaries. The Planning and Development Department may maintain a working zoning map, including a digital or geographic information system map, for administrative use and public reference.

(f) Digital zoning map.

- (1) The City may maintain the zoning map in digital format. The digital zoning map may be used for administrative, public information, and enforcement purposes, but shall be updated only to reflect zoning district boundaries adopted by ordinance.

(g) Conflict.

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(1) If a conflict exists between the working zoning map, digital zoning map, or any administrative map and an adopted ordinance establishing or amending the zoning classification of property, the adopted ordinance shall control.

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~~(a) Two original, official, and identical copies of the zoning map are hereby adopted bearing the signature of the mayor and the attestation of the city secretary and shall be filed and maintained as follows:~~

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~~(1) One copy shall be filed with the city secretary and retained as the original record and shall not be changed in any manner; and one copy shall be filed with the department of planning and development (and for joint use and information of the planning and zoning commission) and shall be maintained up to date by the director of planning and development printing thereon all changes and subsequent amendments thereto, as hereinafter provided for.~~

~~(2) Future ordinances, as hereinafter provided for, providing for changes and amendments in such zoning district boundaries, together with such original map, constitutes that portion of the chapter, from time to time, establishing the boundaries of such zoning districts.~~

(Code 1997, § 159.031; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§ 111-61. Zoning district boundaries.

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(a) 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 maps, the following rules shall apply.

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(b) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

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(c) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

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(d) Boundaries indicated as approximately following city limits shall be construed as following such lot lines.

(e) Boundaries indicated as following railroad lines shall be construed to be the centerline of the right-of-way, or if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines.

~~(f) Boundaries indicated as approximately following the centerlines of streams, canals, lakes, drainage ditches or other bodies of water shall be construed to follow such centerlines.~~

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~~(f)~~

~~(g) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through~~

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~~(g) (f) of this section shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.~~

(h) Whenever any street, alley, or other public way is vacated by official action of the city commission or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

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(i) Where physical features on the ground are at variance with information shown on the official zoning district map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of subsections

(b) through (h) of this section, the property shall be considered N-Not Designated District temporarily in the same manner as provided for newly annexed territory and the issuance of a building permit and the determination of permanent zoning shall be in accordance with the provisions provided in section 111-32 for temporarily zoned areas.

(+)

(Code 1997, § 159.032; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§ 111-62. Use Chart; Allowable Uses by Zoning District.

Legend: A = Allowed by right; S = Special Use Permit required; SP = Site plan approval required; --- = Not permitted; * = Storage only (no principal use); ^ = Only permitted on tracts of 5 acres or more.

Notes: Uses remain subject to all applicable standards in this chapter and other City codes.

Abbreviation	Zoning District
N	Not Designated
AG	Agricultural
OS	Open Space/Recreation
R-1	Low Density Residential
R-2	Medium Density Residential
MF	Multifamily
MH	Mobile Home
MU-N	Neighborhood Mixed Use
MU-C	Community Mixed Use
C-1	Neighborhood Commercial
C-2	General Commercial
E	Employment
I	Institutional
LI	Light Industrial
HI	Heavy Industrial

This section contains a chart of permissible land uses by zone. If you want to open a specific type of business look for that use in the uses listed in the left hand column. Once the use is located, follow the line across to the right to determine which zoning designations it is allowed in by right (designated by an "A"), which it is allowed in with a special use permit (designated by an "S"), or if it is not allowed in a zone (no mark present). If you do not find your use listed, check with the department of planning and development, it may be under a general classification category. Similarly, if you own a piece of property and you know what it is zoned, you can determine what uses are allowed by following the column under your zoning category (e.g. R-1, M-2, MH...) to determine which uses are allowed by right or with a special use permit.

Residential Uses

Use	N	AG	OS	R-1	R-2	MF	MH	MU-N	MU-C	C-1	C-2	E	I	LI	HI
One-family dwelling	A	A	---	A	A	A	A	A	---	---	---	---	---	---	---
Two-family dwelling / duplex	---	---	---	---	A	A	---	A	---	---	---	---	---	---	---
Three-family dwelling / triplex	---	---	---	---	---	A	---	A	A	---	---	---	---	---	---

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Institutional and Open Space Uses

Use	A	AG	DS	R-1	R-2	MF	MH	MU-N	MU-C	C-1	C-2	E	I	A1	A2
Airport	S									S	S	S	S	A	A
Assisted living facility / group home		S	S		S	A		A	A	A	A	S	A		
Church		A	A	A	A	A		A	A	A	A	A	A	AS	S
Community center			SP	S	S	S		A	A	A	A	A	A	A	A
Community residential facility				S	S	S		A	A	S	S		A		
Convent		S	S	S	A	A		A	A	A	A	A	A		
Country club with golf course		A	A	A	A	A		A	A	A	A	A	A		
Kindergarten school		S	S	S	S	AS	S		A	A	A	A	A	S	
Fairgrounds / exhibition area								S	S	A	A	A	A	A	A
Farm / ranch / orchard / garden	A	A		A	A	A	A	A	A	A	A	A	A	A	A
Fraternity / sorority / civic lodge						S		A	A	A	A	A	A	S	
Golf driving range											A	A	A	A	
Halfway house					S	S				S	S			S	
Hospital					S	S		A	A	A	A	S	A	S	
Nursing home					S	S		A	A	A	A	S	A	S	
Open air business								A		S	S	S	S	S	
Park / playground / golf course	A	A	A	A	A	A		A	A	A	A	A	A	A	A
School, college or university				S	S	S	S	S	A	A	A	A	A	A	
School, public, private or parochial				S	S	S	S	S	A	A	A	A	A	A	
Schools, trade and commercial								A		A	A	A	A	A	S
Sober living house				S	S	S	S	S	S	S	S	S	S	S	S
Tennis and/or swim club				S	S	S	S	A	A	A	A	A	A	S	

Utility / Service Uses

Use	N	AG	OS	R-1	R-2	MF	MH	MU-N	MU-S	E-1	E-2	E	I	LI	HI
Battery energy storage facility	---	---	---	---	---	---	---	---	---	---	S	S	S	S	S
Electrical substation	A	A	A	---	---	S	S	S	A	A	A	A	A	A	A
Fire station / police station	S	S	S	S	S	S	S	S	A	A	A	A	A	A	A
Radio / TV / microwave tower	---	---	---	---	---	S	S	S	S	A	A	A	A	A	A
Railroad tracks and right-of-way	S	S	S	S	S	S	S	S	S	S	S	S	A	A	A
Sewage pump station	A	A	A	S	S	S	S	A	A	A	A	A	A	A	A
Solar farm	---	---	---	---	---	---	---	---	---	---	S	S	S	S	S
Telephone line exchange building	---	---	---	---	---	A	A	A	A	A	A	A	A	A	A

Accessory and Incidental Uses

Use	N	AG	OS	R-1	R-2	MF	MH	MU-N	MU-S	E-1	E-2	E	I	LI	HI
Accessory structures	---	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Field offices, temporary	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Home occupations	---	A	---	---	---	A	A	A	---	---	---	---	---	---	---
Portable buildings and storage buildings less than 144 sq. ft.	---	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Portable buildings and storage buildings greater than 144 sq. ft.	---	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
Storage containers	---	---	---	---	---	---	---	---	S	S	S	S	S	S	S
Signs, general	---	---	A	A	A	A	A	A	A	A	A	A	A	A	A
Signs, billboards	---	---	---	---	---	---	---	---	---	---	---	A	---	A	A
Business and pole signs	---	---	---	---	---	---	A	A	A	A	A	A	A	A	A
Swimming pool	---	---	A	A	A	A	A	A	A	A	A	A	A	A	A

Automobile and Machinery Type Uses

Use	N	AG	OS	R-1	R-2	MF	MH	MU-N	MU-S	E-1	E-2	E	I	LI	HI
Auto paint and rebuild	---	---	---	---	---	---	---	---	---	A	A	---	---	A	A
Auto parking lot	---	---	---	---	S	---	---	A	A	A	A	A	A	A	A
Auto sales and repair	---	---	---	---	---	---	---	---	---	A	A	A	A	A	A
Carwash	---	---	---	---	---	---	---	---	---	SPA	SPA	SPA	SPA	SPA	SPA
Drag strip or commercial racing	---	---	---	---	---	---	---	---	---	---	---	---	---	A	A
Farm equipment sales	---	---	---	---	---	---	---	---	---	A	A	A	A	A	A
Gasoline station	---	---	---	---	---	---	S	SA	S	A	A	A	A	A	A
Heavy machinery, sales and storage	---	---	---	---	---	---	---	---	---	A	A	A	A	A	A
Mobile home sales	---	---	---	---	---	---	---	SA	---	A	A	A	A	A	A
Mobile home repairs	---	---	---	---	---	---	---	---	---	---	---	---	---	A	A
New and used car lot	---	---	---	---	---	---	---	SA	---	A	A	---	---	A	A
New auto parts	---	---	---	---	---	---	---	SA	---	A	A	---	---	A	A
Taxi stand	---	---	---	---	---	---	---	---	---	A	A	---	---	A	A

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Use	N	AG	OS	R-1	R-2	MF	MH	MU-N	MU-C	C-1	C-2	E	I	H	H1
Adult business															
Air conditioning contractor											A	A		A	A
Antique shop								S	SA	A	A	A		A	A
Auction house, inside											A	A		A	A
Auction house, outside														A	A
Bakery, retail sales								A	A	A	A	A		A	A
Bank, office only								S	A	A	A	A		A	A
Bank, with drive-through window									A	S	A	A		A	A
Bars / lounges									S	S	S	S		S	S
Beauty shop / barbershop											A	A		A	A
Bed and breakfast				S	S	S		S	S	S	A				
Bowling alley											A	A		A	A
Building material sales											A	A		A	A
Cabinet or upholstery shop											A	A		A	A
Cafeteria											A	A		A	
Call center										S	A	A		A	A
Candy or cake shop									A	A	A	A		A	
Carpet cleaning business											A	A		A	A
Cleaning, dyeing plant, commercial														A	A
Cleaning, dyeing and pickup shop											A	A		A	A
Commercial amusements, indoor											A	A		A	A
Commercial amusements, outdoor											S	A		A	A
Contractor, electric											A	A		A	A
Contractor shop, plumbing											S	A		A	A
Contractor shop and storage yard														A	A
Custom personal service shop								A	A	A	A	A		A	
Dance / reception											A	A		A	A
Dance / reception hall (alcohol permitted)											S	A		A	A
Day nursery / day care center								S	A	A	A	A		S	
Drapery shop								A	A	A	A	A		A	
Drive-in theater											S	S		A	
Engine / motor repair											A	A		A	A

Industrial Uses

- [illegible]

Use	N	AG	OS	R-1	R-2	MF	MH	MU-N	MU-S	E-1	E-2	E	LI	HI
Aboveground petroleum storage tank											S		A	A
Bulk storage in the open of scrap or used materials														S
Distribution center										S		A	A	A
Light industrial manufacturing										S		A	A	A
Heavy industrial manufacturing													S	A
Industrial use requiring SUP										S	S	S	S	S

Administrative note: Where a use is allowed by right or by SUP, all applicable zoning, building, fire, health, drainage, parking, landscaping, signage, access, and other development standards still apply.

ZONING DISTRICT														
	N	R1	R2	M1	M2	MH	PD ¹	P	NS	GR	LI	HI	RPH	
RESIDENTIAL USES														
One-family dwelling		X	X	X	X	X	X ¹	X	X	X			X	
Two-family dwelling/ duplex			X	X	X	X	X ¹	X	X	X			X	
Three-family dwelling/ triplex				X	X	X	X ¹	X	X	X				
Four-family dwelling/ quadruplex				X	X	AX	X ¹	AX	X	X				
Multifamily and apartments					X	AX	X ¹	AX	X	X				
Mobile home/ manufactured homes						X	AX ¹							
Recreational vehicles		*	*	*	*	*X	AX ¹	*	*	*	*X	*X	*	

Garden home/patio homes	=	S	S	S	AX	AX	A ¹	AX	AX	-X	=	=	=	x			
Townhouses	=	S	S	S	AX	AX	X ¹	AX	AX	-X	=	=	=	S			
Condominium	=	S	S	S	AX	AX	X ¹	AX	AX	-X	=	=	=	S			
Institutional and Open Space Uses																	
Airport	S				S	S	S ¹	S	S	S	S	S	S	S	S	S	S

		Zoning District															
	N	AG R1	OSR 2	R-M1	R-2M2	R-3MH	MHP D ¹	MU-NO	MU-CNS	C-1GR	C-2LI	EH1	IRPH	LI	HI		
Assisted living facility/group home		S	S	X	X		X ²	X	X	X	S						
Church		X	X	X	X	X	X ²	X	X	X	X	S					
Community center		S	S	S	S	S	X ²		X	X	X	X					
Community residential facility				S	S					S	S						
Convent		S	S	S	X	X	X ²	X	X	X	X						
Country club with golf course		X	X	X	X	X	X ²	X	X	X	X	X					
Kindergarten school	=	S	S	S	S	S	S ²	AX	AX	AX	AS	A	A	S	=		
Fairgrounds/exhibition area	=	=	=	=	=	=	X ²	S	S	AX	AX	AX	A	A	A		
Farm/ranch/orchard/garden	AX	AX	AX	AX	AX	AX	A ²	AX	AX	AX	AX	AX	A	A	A		

Storage Facility																
Electrical substation	A	A	AX	=	=	S	S	S	AX	AX	AX	AX	AX	AX	AX	
Fire station/police station	S	S	S	S	S	S	S	S	AX	AX	AX	AX	AX	AX	AX	A
Radio/TV or microwave tower	=	=	=	=	=	S	S	S	AX	S	A	AX	AX	AX	AX	A
Railroad tracks and R.O.W.	S	S	S	S	S	S	S	S	AX	S	S	S	AX	AX	AX	A
Sewage pump station	A	A	AX	S	S	S	S	AS	AX	AX	AX	AX	AX	AX	AX	AS
Solar Farm	=	=	=	=	=	=	=	=	=	=	=	S	S	S	S	S

	Zoning District															
	N	AGR1	OSR 2	R- 1M1	R- 2M2	R- 3MH	MH PD*	MU- NO	MU- CNS	C- 1GR	C-2LI	EH1	IRPH	LI	HI	
Telephone line exchange building	=	=	=	=	=X	AX	A X*	AX	AX	AX	AX	AX	A	A	A	
Accessory and Incidental Uses																
Accessory buildings	=	=X	=X	AX	AX	AX	A X*	AX	AX	AX	AX	AX	AX	A	A	
Field offices; temporary	A X	AX	AX	AX	AX	AX	A X*	AX	AX	AX	AX	AX	AX	A	A	
Home occupatio ns	=	=X	=X	AX	AX	AX	A X*	AX	=X	=X	=X	=X	=X	=	=	
Portable building less than 144 square feet	=	=X	AX	AX	AX	A X	A X*	AS	S	S	S	S	SX	S	S	

Portable building greater than 144 square feet	=	<u>S</u>	<u>SS</u>	S	S	S	<u>S</u> <u>X</u>	S	S	S	S	S	<u>S</u>	<u>S</u>	<u>S</u>
Signs/ general	=	<u>X</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>A</u> <u>X</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>A</u> *	<u>A</u>	<u>A</u>
Signs/ billboards							<u>X</u>			<u>X</u>	<u>AX</u>	<u>AX</u>	<u>A</u>	<u>A</u>	<u>A</u>
Signs, business and pole signs						<u>X</u>	<u>A</u> <u>X</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>A</u>	<u>A</u>	<u>A</u>
Storage building less than 144 square feet	=	<u>X</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>A</u> <u>X</u>	<u>SS</u>	<u>S</u>	S	S	S	<u>S</u> *	<u>S</u>	<u>S</u>
Storage building greater than 144 square feet	=	<u>S</u>	S	S	S	S	<u>S</u> <u>X</u>	S	<u>S</u>	S	S	S	<u>S</u>	<u>S</u>	<u>S</u>

	Zoning District															
	N	AGR1	RQS 2	R-1M1	R-2M2	R-3MH	MH PD1	MU-NO	MU-CNS	C-1GR	L-C-2H	HE1	IRPH	L1		
Swimming pool	=	<u>X</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>A</u> <u>X</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>A</u> *	<u>A</u>	<u>A</u>	
Automobile and Machinery Type Uses																
Auto paint and rebuild	=	=	=	=	=	=	<u>X</u>	=	=	<u>X</u>	<u>AX</u>	<u>AX</u>	=	<u>A</u>	<u>A</u>	
Auto parking lot	<u>=</u> *	=	=	=	<u>S</u>	<u>S</u>	<u>X</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>AX</u>	<u>A</u>	<u>A</u>	<u>A</u>	
Auto sales and repair	=	=	=	=	=	=	<u>X</u>	=	=	<u>X</u>	<u>AX</u>	<u>AX</u>	<u>A</u>	<u>A</u>	<u>A</u>	
Carwash	=	=	=	=	=	=	<u>X</u>	=	=	<u>X</u>	<u>AX</u>	<u>AX</u>	<u>A</u>	<u>A</u>	<u>A</u>	
Drag strip or commercial racing	=	=	=	=	=	=	<u>X</u>	=	=	=	<u>X</u>	<u>X</u>	=	<u>A</u>	<u>A</u>	

Farm equipment-sales	=	=	=	=	=	=	=	X	=	=	X	AX	AX	A	A	A
Gasoline station	=	=	=	=	=	=	X	S	XA	SX	AX	AX	AX	A	A	A
Heavy machinery, sales and storage	=	=	=	=	=	=	X	=	=	X	XA	AX	AX	A	A	A
Mobile home sales	=	=	=	=	=	=	X	=	A	X	AX	AX	AX	A	A	A
Mobile home repairs	=	=	=	=	=	=	X	=	=	=	X	X	=	A	A	A
New and used car lot	=	=	=	=	=	=	X	=	A	X	AX	AX	=	A	A	A
New auto parts	=	=	=	=	=	=	X	=	A	X	AX	AX	=	A	A	A
Taxi stand	=	=	=	=	=	=	X	=	=	X	AX	AX	=	A	A	A
Trailer rental/sales	=	=	=	=	=	=	X	=	=	X	AX	AX	=	A	A	A

	Zoning District															
	N	AGR1	OSR2	R-M1	R-M2	R-3MH	MH-PP	MU-NO	MU-CNS	C-1GR	C-2LI	EHI	IRPH	LI	HI	
Truck parking lot	=	=	=	=	=	=	X	=	=	X	AX	AX	=	A	A	A
Towing, wrecked vehicle storage	=	=	=	=	=	=	X	=	=	=	X	X	=	A	A	A
Used auto parts	=	=	=	=	=	=	X	=	=	=	X	X	=	A	A	A
Wrecking and salvage yard	=	=	=	=	=	=	X	=	=	=	S	S	=	S	S	A
Retail and Service Type Uses																
Adult business	=	=	=	=	=	=	X	=	S	S	AX	AX	=	A	A	A

Air condition contracto r	=	=	=	=	=	=	= X ¹	=	=	= X	AX	AX	=	A	A
Antique shop	=	=	=	=	=	=	= X ²	S	AX	AX	AX	AX	=	A	A
Auction house; inside	=	=	=	=	=	=	= X ¹	=	=	= X	AX	AX	=	A	A
Auction house; outside	=	=	=	=	=	=	= X ²	=	=	=	= X	= X	=	A	A
Bakery; retail sales	=	=	=	=	=	=	= X ²	AX	AX	AX	AX	AX	=	A	A
Bank; office only	=	=	=	=	=	=	= X ²	SX	AS	AX	AX	AX	=	A	A
Bank; with drive- through window	=	=	=	=	=	=	= X ²	=S	A	SX	AX	AX	=	A	A
Bars/ lounges	=	=	=	=	=	=	=S	=S	S	S	S	S	=	S	S
Beauty shop/ barbersh op	=	=	=	=	=	=	= X ²	= X	=	= X	AX	AX	=	A	A

	Zoning-District															
	N	AGR1	OSR2	R-1M1	R-M2	R-3MH	MH-PD ¹	MU-NO	MU-CNS	C-1GR	C-2LI	EH1	IRPH	LI		
Bed-and breakfast	=	=S	=S	S	SX	S	= X ²	S	S	SX	A	=	=S	=	=	
Bowling alley	=	=	=	=	=	=	= X ²	=	=	=X	AX	XA	=	A	A	
Building material sales	=	=	=	=	=	=	= X ²	=	=	=X	AX	AX	=	A	A	
Cabinet or upholster y-shop	=	=	=	=	=	=	= X ²	=	=	=X	AX	AX	=	A	A	
Cafeteria	=	=	=	=	=	=	= X ²	=	=	=X	AX	A	=	A	=	
Call center	=	=	=	=	=	=	= X ²	=S	=	SX	AX	AX	=	A	A	
Candy-or cake	=	=	=	=	=	= X ²	=	AX	AX	AX	AX	A	=	A	=	

Carpet cleaning business	=	=	=	=	=	=	=	X	=	=	X	AX	AX		A	A
Cleaning, dyeing plant, commercial	=	=	=	=	=	=	=	X	=	=	=	X	X	=	A	A
Cleaning, dyeing and pickup shop	=	=	=	=	=	=	=	X	=	=	X	AX	AX		A	A
Commercial amusements, indoor	=	=	=	=	=	=	=	X	=	=	X	AX	AX	=	A	A
Commercial amusements, outdoor	=	=	=	=	=	=	=	X	=	=	S	SX	AX	=	A	A
Contractor, electric	=	=	=	=	=	=	=	X	=	=	X	AX	AX	=	A	A
Contractor - shop, plumbing	=	=	=	=	=	=	=	X	=	=	S	SX	AX	=	A	A

	Zoning-District															
	N	AGR1	OSR2	R-M1	R-M2	R-2MH	MH-PD'	MU-NO	MU-CNS	C-1GR	C-2LI	EH1	IRPH	LI		
Contract or-shop and storage yard	=	=	=	=	=	=	= X ²	=	=	=	= X	= X	=	= A	= A	
Custom personal service shop	=	=	=	=	=	=	= X ²	= AX	= AX	= AX	= AX	= A	=	= A	=	
Dance/ reception	=	=	=	=	=	=	= X ²	=	=	= X	= AX	= AX	=	= A	= A	
Dance/ reception hall (alcohol permitted)	=	=	=	=	=	=	= X ²	=	=	= S	= SX	= AX	=	= A	= A	

Day nursery/ day-care center (adult or child)	=	=	=	=	=	=	= X'	SX	AX	AX	AS	A	=	S	=
Drapery shop	=	=	=	=	=	=	= X'	A	AX	AX	AX	A	=	A	=
Drive-in theater	=	=	=	=	=	=	= X'	=	=	=S	SX	SX	=	A	=
Engine/ motor repair	=	=	=	=	=	=	= X'	=	=	=X	AX	AX	=	A	A
Farmers market	=	S	S	S	S	S	S	S	S	S	S	=	=	=	=
Feed store	=	=	=	=	=	=	= X'	=	=	X	AX	XA	=	=	=
Florist/ garden shop	=	=	=	=	=	=	= X'	AX	AX	AX	AX	A	=	A	=
Food Truck Park	=	=	=	=	=	=	=	=S	S	S	S	SS	=	=	=

	Zoning-District														
	N	AGR1	OSR2	R-1M1	R-M2	R-2MH	MH-PD'	MU-NO	MU-CNS	C-1GR	C-2LI	FHI	IRPH	LI	HI
Furniture / appliance storage; repair and/or sale (used; outside)	=	=	=	=	=	=	= X'	=	=	=	=X	=X	=	X	X
Greenhouse or nursery; retail	=	=	=	=	=	=	= X'	=	=	=X	AX	=X	=	A	=
Handicraft-shop	=	=	=	=	=	=	= X'	=	=	=X	XS	AX	=	A	A
Hotel/ motel	=	=	=	=	=	=X	= X'	=S	A	=X	AX	AX	=	=	=
Household appliance service/ repair	=	=	=	=	=	=	= X'	=	=X	=X	AX	=X	=	A	A

Job printing	=	=	=	=	=	=	=	X	=	=	X	X	X	=	A	A
Laundry plant	=	=	=	=	=	=	=	X	=	=	X	AX	AX	=	A	A
Mini-storage units	=	=	=	=	=	=	=	X	=	A	X	AX	AX	=	A	A
Pet shop	=	=	=	=	=	=	=	X	=	A	X	AX	A	=	A	=
Pharmacy	=	=	=	=	=	=	=	X	AX	AX	AX	AX	=	=	A	=
Mortuary	=	=	=	=	=	=	=	X	=	=	X	AX	X	=	A	A
Neighborhood club	=	S	S	S	S	S	S	X	S	AX	AX	AX	X	S	=	=
Newspaper printing	=	=	=	=	=	=	=	X	=	=	X	AX	AX	=	A	A
Offices; professional/administrative	=	=	=	=	=	=	=	X	AX	AX	AX	AX	AX	=	A	A
Outdoor music establishment	=	=	=	=	=	=	=	X	=	=	S	SX	X	=	A	A

	Zoning-District													H	H
	N	AGR	OSR2	R-1M1	R-M2	R-2MH	MH-PD	OML-N	ML-CNS	C-1GR	C-2LI	FHI	IRPH		
RR-team track/passenger station	=	=	=	=	=	=	X	=	=	X	AX	X	=	A	A
Recycling-center, ferrous	=	=	=	=	=	=	X	=	=	=	S	X	=	S	S
Recycling-center, non-ferrous	=	=	=	=	=	=	X	=	=	S	SX	X	=	S	A
Restaurant-with drive-in service	=	=	=	=	=	=	X	=	A	X	AX	AX	=	A	=
Restaurant without drive-in	=	=	=	=	=	=	X	S	A	SX	AX	AX		A	=

Retail shops and stores	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=
Scientific and research lab	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=
Sexually oriented business	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=
Stationery/letter/office supplies shop	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=
Storage warehouse	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=
Photography/art/music studio	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=
Radio/TV studio	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=	=

	Zoning District																
	N	AGR 1	OSR2	R- 1M1	R- M2	R- 3MH	MH PD	MU- NO	MU- CNS	C-1GR	C-2H	EH	IRPH	LI			HI
Tortilla factory	=	=	=	=	=	=	= X	=	= AS	= SX	= AX	= AX	=	= A	= A		
Vet, clinics and kennels	=	=	=	=	=	=	= X	=	=	= X	= AX	= X	=	= A	= A		
Welding shop	=	=	=	=	=	=	= X	=	=	= X	= AX	= X	=	= A	= A		
Industrial uses																	
Abovegr ound petroleu m storage tank	=	=	=	=	=	=	= X	=	=	= S	= SX	= X	=	= A	= A		
Bulk storage in-the open-of scrap-or used materials	=	=	=	=	=	=	= X	=	=	=	=	= S	=	=	= S		

Distributi on center	=	=	=	=	=	=	= X	=	=	=S	SX	AX	A	A	A
Light industry manufact uring	=	=	=	=	=	=	= X	=	=	=S	SX	X	A	A	A

(Code 1997, § 159.033; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 95-37, adopted 7/1/1997; Ordinance 99-66, adopted 10/20/1999; Ordinance 00-89, adopted 11/1/ 2000; Ordinance 01-16, adopted 2/21/2001; Ordinance 02-39, adopted 5/1/2002; Ordinance 02-50, adopted 6/5/2002; Ordinance 03-31, adopted 5/21/2003; Ordinance 07-27, adopted 4/18/2007; Ordinance 12-14, § I, adopted 3/7/2012; Ordinance 14-3, § I, adopted 2/5/2014; Ordinance 2018-32, § I (Exh. A), adopted 9/5/2018; Ordinance 2021-07, § I, adopted 2/17/2021; Ordinance 2023-43, § I, adopted 10/18/2023)

§ 111-63. Circuses, carnivals and amusements.

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

(a)

(b) Carnival means a transient or traveling show temporarily erected for the amusement of those attending, normally consisting of mechanical rides, and normally, but not necessarily, including a combination of two or more of the following attractions: a ferris wheel; a side show; a mechanical merry-go-round; a roller coaster; a game of skill with prizes awarded to winners.

(c) Circus means a transient or traveling show performed for the amusement of those attending, featuring shows by performers, normally including, but not limited to, clowns, acrobats, jugglers, trapeze artists and trained animals. Any circus in combination with a carnival or containing the attractions as set forth in the definition of a carnival above shall be considered a carnival for the purposes of this chapter and not a circus.

(d) Permanent amusement park means a permanent place of entertainment containing permanent buildings, permanent and temporary attractions normally associated with carnivals and located within an enclosed area. Such enclosed area may be enclosed by surrounding buildings, or a fence at least 75 percent of which will be a permanent screening fence of masonry or solid redwood or cedar, no less than six (6) feet in height, with the remaining 25 percent of such fence to be of chainlink type, no less than six (6) feet in height.

(e) Residential structure means a single-family residence, duplex, multifamily residence or mobile home occupied as a residence whether or not zoned for that purpose.

(f) School/church carnival means a carnival as defined in this subsection, but sponsored and conducted by and exclusively controlled by the public, private, or parochial schools or churches of the city, staffed by teachers and students (or their parents) and operated on the grounds of the school or church involved. Said carnival may consist of a transient or traveling show or totally originating locally. (These carnivals shall be exempt from the provisions set forth in this article.)

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(g) Temporary amusement show or religious activity means a show other than a carnival or a circus, such as a transient or temporary skating rink or temporary religious revival or service, petting zoo, rock concert or other outdoor musical concert performed by a transient or traveling musical group or band; to be held for a limited time with a fixed or anticipated termination date, whether conducted in a tent structure, rented building, storage building, or an open air space.

(b)(h) Carnivals, circuses, religious activities or temporary amusements; location restrictions.

- (1) Carnivals, circuses, religious activities or temporary amusements are allowed only in the following zoned areas of the city:

a. General Retail (GR); C-1, Neighborhood Commercial

(4) C-2, General Commercial

(2) Light Industry (LI);

(3) Heavy Industry (HI); or

b.

c. N, Not Designated; or (N);

(4) d. AG, Agricultural.

- (2) An event may be operated on city owned land under whatever limitations or regulations the city shall impose. These limitations shall be determined individually or on a case by case basis with nothing herein set forth to be construed as requiring the city to make available to any event such city owned property, whether open air or enclosed.
- (3) No portion of such event shall be set up, located, and/or operated within 300 feet of any private residential structure located in a residentially zoned district (R-1, R-2, ~~M-1, M-2~~MF, and MH) as defined in this article. The city commission may, after a public hearing, make exception to this location restriction where good cause exists, but shall not be bound to do so.

(e)(i) Parking.

- (1) Carnivals. 15 off-street parking spaces must be provided for each mechanical ride contiguous to the grounds where the carnival is operated.
- (2) Circuses. One off-street parking place must be provided for each four seats available to view circus acts contiguous to the grounds on which the circus is operated.
- (3) Religious activities or other temporary amusements. One off-street parking place must be provided for each four seats of seating available or for each 400 square feet of activity area, whichever is greater, contiguous to the grounds on which the event is located.

(d)(j) Permanent amusement parks.

- (1) Permanent amusement parks in the city shall be prohibited except in the area zoned general ~~retail commercial~~, light industry, heavy industry.

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(2) Nothing contained in this section shall be construed as an exemption from compliance by such permanent amusement park with any other subdivision requirements, zoning requirements, housing code, building code, or other ordinances of the city, which shall be complied with prior to the utilization of such permanent amusement park by the general public.

(2)
(Code 1997, §§ 112.01, 112.05, 112.06, 112.11(A), (D); Ordinance 04-20, adopted 4/7/2004)

§ 111-64. Drilling for hydrocarbons or other minerals restricted.

It shall be unlawful for any person, firm, corporation, individual, partnership, or other legal entity to engage in or permit drilling for the purpose of exploring for, discovering, producing, or injecting hydrocarbons or other minerals on any property within the city, with the exception of property zoned light industrial~~y~~ and heavy industrial~~y~~ under this article. Any drilling for such purposes shall be unlawful at any location nearer than 400 feet from any residence, commercial building, or other permanent structure intended for human occupancy.

(Code 1973, § 18-8; Code 1997, § 150.005; Ordinance 86-51, adopted 7/1/1986)

§ 111-65. through § 111-86. (Reserved).

ARTICLE IV BUILDING SITES

§-111-87. Creation of building site.

No permit for the construction of a building 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:

- (1) The lot or tract is part of a plat of record properly approved by the planning and zoning commission and filed in the Plat Records, Cameron County, Texas.
- (2) The site plot or tract is all or part of a site plan officially approved by the planning and zoning commission, which site plan provides all utility and drainage easements, alleys, streets and other public improvements necessary to meet the normal requirements for platting, including designation of building areas, and such easements, alleys and streets have been acquired and property dedicated and the necessary public improvements provided.
- (3) The plot, tract, or lot faces upon a dedicated street and was separately owned prior to the effective date of the ordinance from which chapter 109 is derived (October 18, 1978). In this event, a building permit for only one main building may be issued on each such original separately owned parcel without first complying with either subsection (1) or (2) of this section.

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(Code 1997, § 159.040; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 95-37, adopted 7/2/1997; Ordinance 00-89, adopted 11/1/2000)

§-111-88. through §-111-117. (Reserved)

ARTICLE _V AREA, YARD, HEIGHT, AND FENCE REGULATIONS

§-111-118. Area regulations.

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

(a) General.

~~(1) Except as otherwise provided in this chapter, no building or structure, or part thereof, shall be erected, altered, or converted for any use permitted in the district in which it is located unless it conforms to the minimum requirements for:~~

- ~~(i) Lot area;~~
- ~~(ii) Lot width;~~
- ~~(iii) Lot coverage;~~
- ~~(iv) Height, and~~
- ~~(v) Drainage.~~

(b) Dimensional standards by zoning district.

~~(1) All applicable dimensional standards shall be satisfied. Compliance with minimum lot width or minimum lot depth shall not relieve a lot from complying with the minimum lot area requirement.~~

Zoning District	Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum Building Height
N- Not Designated	5 acres	100 ft	150 ft	20%	35 ft
AG Agricultural	5 acres	100 ft	150 ft	20%	35 ft
OS Open Space/Recreation	None	None	None	None	35 ft
R-1 Low Density Residential	6,000 sf	50 ft	100 ft	60%	35 ft
R-2 Medium Density Residential	6,000 sf	50 ft	100 ft	60%	40 ft
MF Multifamily	6,000 sf	50 ft	100 ft	75%	50 ft
MH Mobile Home	2,400 sf	40 ft	60 ft	60%	35 ft
MU-N Neighborhood Mixed Use	None	None	None	75%	40 ft
MU-C Community Mixed Use	None	None	None	85%	60 ft
C-1 Neighborhood Commercial	None	None	None	85%	40 ft
C-2 General Commercial	None	None	None	90%	55 ft
E Employment	None	None	None	85%	60 ft

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<u>I Institutional</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>80%</u>	<u>60 ft</u>
<u>LI Light Industrial</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>90%</u>	<u>75 ft</u>
<u>HI Heavy Industrial</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>90%</u>	<u>75 ft</u>

"None" means no minimum standard is established by this section; however, the lot shall comply with all applicable parking, access, drainage, landscaping, fire access, utility, subdivision, and site development requirements.

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(c) Supplemental residential standards.

(1) The following supplemental standards shall apply where applicable:

<u>Residential Form</u>	<u>Supplemental Standards</u>
<u>Townhouse</u>	<u>Minimum lot area = 2,500 sf per dwelling unit</u> <u>Minimum lot width, interior unit = 25 ft</u> <u>Minimum lot width, end unit = 30 ft</u> <u>Minimum lot depth = 80 ft per dwelling unit</u> <u>Front setback = 10 ft minimum</u> <u>Garage door facing street = 20 ft minimum</u> <u>Rear setback = 10 ft minimum</u> <u>Side setback, interior = Zero-lot-line</u> <u>Side setback, end unit or corner = 10 ft minimum</u> <u>▲ Townhouse lots shall be configured to accommodate the required off-street parking in accordance with Article VI of this chapter, driveway depth where applicable, building footprint, utility placement, drainage, and required front, side, and rear setbacks without encroaching into a public sidewalk, public right-of-way, easement, or required sight visibility area.</u> <u>Townhouses shall comply with applicable access, drainage, utility, fire access, subdivision, platting, building code, windstorm, and sight visibility requirements.</u>
<u>Patio home/Garden home</u>	<u>Minimum lot area of 3,500 sf per dwelling unit</u> <u>Minimum lot width = 35 ft per dwelling unit</u> <u>Minimum lot depth, 90 ft per dwelling unit</u> <u>Front setback: 15 ft minimum</u> <u>Garage door facing street: 20 ft minimum</u> <u>Rear setback: 10 ft minimum</u> <u>Side setback, interior = zero-lot-line</u> <u>Side setback, interior opposite side = 10 ft</u> <u>Side setback, corner = 10 ft</u> <u>Minimum private open space = 300 sf per unit</u> <u>Openings on zero-lot-line wall = Prohibited unless allowed by building/fire code and easement design.</u> <u>Required maintenance easement = 5 ft on adjacent lot when wall is on property line</u>
<u>Multifamily</u>	<u>Subject to density, parking, open space, landscaping, and site plan requirements</u>
<u>Manufactured housing/Mobile Home</u>	<u>Subject to Chapter 107 and applicable manufactured housing standards.</u>
<u>Recreational vehicle</u>	<u>Storage only unless expressly permitted elsewhere in this chapter</u>

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(d) Nonresidential lots.

(1) Nonresidential lots shall be of sufficient size and configuration to accommodate all applicable requirements for building placement, parking, loading, stacking, access, fire access, utilities, drainage, landscaping, screening, solid waste service, and other site development standards.

(e) Lots of record.

(1) A lot having less area, width, or depth than required by this section, which was lawfully established as a lot of record prior to adoption of the ordinance from which this chapter is derived, may be used for a permitted use, provided that:

- (i) The lot is not further reduced in area, width, or depth; and,
- (ii) Development complies with all other applicable regulations to the extent practicable.

(g) Reduction of lot size prohibited.

(1) No lot existing at the time of adoption of this chapter shall be reduced in area, width, or depth below the minimum dimensional standards established by this chapter.

(h) Lot coverage and impervious surfaces.

(1) For the purposes of this section, maximum lot coverage shall include the combined area of all principal buildings, accessory buildings, and impervious surfaces, including but not limited to driveways, parking areas, sidewalks, patios, and paved or concrete surfaces.

(i) Drainage.

(1) No roof overhang, drainage pipe, or impervious surface shall discharge stormwater directly onto adjacent private property in a manner that causes erosion, flooding, or damage.

(2) Drainage systems, rain gutters, swales, grading, landscaping or other drainage improvements may be required by the city engineer to control runoff.

(j) Landscaping and drainage mitigation.

(1) Where lot coverage exceeds eighty (80) percent, the site shall provide landscaping, drainage improvements, or other approved mitigation measures in accordance with this chapter and applicable drainage requirements.

(2) Permeable pavement, landscaped areas, and other approved pervious surfaces may be excluded from impervious surface calculations where designed and maintained to function as pervious surfaces.

(k) Building Height.

(1) Applicability.

(i) Maximum building height shall be regulated as part of the dimensional standards established in subsection (b). No building or structure shall be erected, altered, enlarged, or relocated so as to exceed the maximum building height allowed for the zoning district in which it is located, except as otherwise provided in this chapter.

(2) Measurement of height.

(i) Building height shall be measured as the vertical distance from the average finished grade adjacent to the building to the highest point of the roof or structure, excluding features expressly allowed to exceed height limits under this subsection.

(3) Height exceptions.

(i) The following features may exceed the maximum building height, provided they comply with applicable building, fire, airport, utility, and safety requirements:

1. Chimneys, vents, elevator overruns, stair towers, mechanical equipment, and similar rooftop appurtenances;

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2. Church steeples, bell towers, cupolas, parapets, and similar architectural features;
3. Water tanks, silos, and similar utility or agricultural structures; and
4. Communication facilities, where permitted and regulated elsewhere in this chapter.

(ii) Height transitions adjacent to residential districts.

1. Where a building in a mixed-use, commercial, employment, institutional, or industrial district is located within fifty (50) feet of an R-1, R-2, MF, or MH district boundary, the building shall not exceed thirty-five (35) feet in height unless additional setbacks are provided in accordance with subsection (k)(5).

(iii) Stepback requirement.

1. Each story or building level above thirty-five (35) feet and located within fifty (50) feet of an R-1, R-2, MF, or MH district boundary shall be stepped back a minimum of ten (10) additional feet from the required yard adjacent to the residential district boundary.

(iv) Additional height by special use permit.

1. A building or structure exceeding the maximum height established in subsection (b) may be approved through a special use permit in accordance with this chapter, provided the City Commission finds that:
 - a) The additional height is compatible with surrounding development;
 - b) The building design mitigates impacts on adjacent properties, including scale, privacy, shadowing, and visual impacts;
 - c) Adequate access, utilities, drainage, fire protection, and emergency service access are available;
 - d) The additional height is consistent with the Comprehensive Plan and the intent of the zoning district; and
 - e) The additional height will not adversely affect public health, safety, or welfare.

(v) Industrial height.

1. Buildings or structures in the LI and HI districts may exceed the maximum height established in subsection (b) only upon approval of a special use permit, unless the structure is exempt under subsection (k)(3). The applicant shall demonstrate that the additional height is necessary for the proposed industrial operation and that impacts on surrounding properties are mitigated.

(vi) Airport and safety limitations.

1. Nothing in this subsection shall authorize a building or structure height that conflicts with applicable airport overlay regulations, Federal Aviation Administration requirements, utility easements, building codes, fire codes, or other applicable safety regulations.

(1) Minimum lot area:

Residential:

- (b) The minimum residential lot area for the various districts shall be in accordance with the following schedule, except that a lot having less area than herein required which was an official "lot of record" prior to the adoption of the ordinance from which this article is

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~~derived may be used for a one-family dwelling and no lot existing at the time of the passage of the ordinance from which this article is derived shall be reduced in area below the minimum requirements set forth herein.~~

~~In the following zoning districts the minimum lot area for residential use shall be in accordance with the following schedule:~~

Notes:

- * Permitted for storage purpose only; must be off-street.
- ** Requires site plan approval.

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a. ~~Nonresidential. No minimum area requirement in this division.~~

(2) ~~Minimum lot width.~~

a. ~~Residential.~~

1. ~~The minimum lot width for lots in the various districts used for residential purposes shall be in accordance with the following schedule, except that a lot having less width than herein required which was an official "lot of record" prior to the adoption of the ordinance from which this article is derived may be used as a one family dwelling and no lot existing at the time of passage of the ordinance from which this article is derived shall be reduced in width below the minimum set forth herein.~~

2. ~~In the following zoning districts the minimum lot width for residential uses shall be in accordance with the following schedule:~~

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b. ~~Residential. No minimum requirement in this division.~~

(3) ~~Minimum lot depth.~~

a. ~~Residential.~~

1. ~~The minimum lot depth for the various districts shall be in accordance with the following schedule, except that a lot having less depth than herein required which was an official "lot of record" prior to the adoption of the ordinance from which this article is derived may be used for a one-family dwelling and no lot existing at the time of the passage of the ordinance from which this article is derived shall be reduced in depth below the minimum set forth herein.~~

2. ~~In the following zoning districts, the minimum lot depth for residential uses shall be in accordance with the following schedule:~~

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Notes:

- ¹ Requires site plan approval.
- * Permitted for storage purposes only, must be off-street.

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b. ~~Nonresidential.~~ No minimum requirements in this division.

(4) ~~Lot coverage:~~

a. ~~Residential.~~ In R-1, R-2 and MH zones, in no case shall more than 60 percent of the total lot area be covered by the combined area of the principal building and all accessory buildings or any other impervious surface such as asphalt and concrete.

b. ~~Nonresidential:~~

1. ~~In M-1 and M-2 zones, in no case shall more than 80 percent of the total lot area be covered by the combined area of the principal building and all accessory buildings or any other impervious surfaces such as asphalt or concrete.~~

2. ~~In O and NS zones, in no case shall more than 90 percent of the total lot area be covered by the combined area of the principal building and all accessory buildings or any other impervious surfaces such as asphalt or concrete.~~

3. ~~In GR, LI, and HI zones, lot coverage may be up to 100 percent, provided landscaping requirements are met by some means such as planters.~~

(5) ~~Lot drainage provisions required.~~ No roof overhang shall be allowed to discharge water into a neighboring private property. Rain gutters, valley gutters or landscaping shall be required to minimize the effects of erosion from direct drainage of water.

(Code 1997, § 159.045; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 95-37, adopted 7/2/1997; Ordinance 98-57, adopted 11/18/1998; Ordinance 01-16, adopted 2/21/2001; Ordinance 03-31, adopted 5/21/2003; Ordinance 06-27, adopted 4/19/2006)

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§111-119. Yard Setbacks, regulations.

(a) Minimum setbacks by zoning district.

(1) No building or structure shall be erected, altered, enlarged, or relocated unless it complies with the minimum yard setbacks established in this section.

<u>Zoning District</u>	<u>Front Yard</u>	<u>Side Yard (Interior)</u>	<u>Side Yard (Corner Lot)</u>	<u>Rear Yard</u>
N (Not Designated)	50 ft	10 ft	15 ft	20 ft
AG (Agricultural)	50 ft	10 ft	15 ft	20 ft
OS (Open Space/Recreation)	0 ft	0 ft	0 ft	0 ft
R-1 (Low-Density Residential)	20 ft	5 ft	10 ft	10 ft
R-2 (Medium Density Residential)	20 ft	5 ft	10 ft	10 ft
MF (Multifamily)	15 ft	5 ft	15 ft	10 ft
MH (Mobile Home)	10 ft	5 ft	10 ft	10 ft
MU-N (Neighborhood Mixed Use)	0-10 ft*	0-5 ft*	10 ft	0-10 ft*
MU-C (Community Mixed Use)	0-10 ft*	0-10 ft*	10 ft	0-10 ft*
C-1 (Neighborhood Commercial)	0-10 ft*	0 ft	10 ft	0 ft
C-2 (General Commercial)	0-10 ft*	0 ft	10 ft	0 ft
E (Employment)	10 ft	0 ft	10 ft	0 ft
I (Institutional)	15 ft	5 ft	10 ft	0-10 ft*
LI (Light Industrial)	10 ft	0 ft	10 ft	0 ft
HI (Heavy Industrial)	10 ft	0 ft	10 ft	0 ft

**Where a setback range is provided, the Planning and development director, may determine the required setback based on pedestrian orientation, existing block pattern, access, parking location, adopted overlay standards, and compatibility with adjacent development.*

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(b) Residential Adjacency.

(1) Where a nonresidential or mixed-used district abuts residential districts (R-1, R-2, or MH district), the following shall apply along the shared property line:

- (i) a minimum ten (10) foot setback shall be required; and
- (ii) screening shall be provided in accordance with §111-122.

(2) This provision shall control over any zero-foot side or rear yard otherwise allowed by 111-119 (a)(1).

(c) Platted building lines.

(1) Where a building line has been established by plat or ordinance, the platted or recorded building line shall control.

(d) Corner lots.

(1) On a corner lot, the yard adjacent to the side street shall comply with the corner side yard setback allowed by 111-119 (a).

(e) Established setback averaging.

(1) Where at least thirty percent (30%) of the frontage on one side of a street between two intersecting streets is improved with buildings that observe a generally consistent front setback, the planning and development director may apply the average established setback, provided the average setback does not create a public safety concern or conflict with a required sight triangle.

(f) Projections into required yards.

(1) Architectural features including eaves, roof overhangs, cornices, windowsills, belt courses, chimneys, awnings, and similar features, may project up to four (4) feet into the required yard, provided such projection does not encroach into a required sight triangle or drainage easement.

(g) Garage setback.

(1) A garage door facing a street shall be set back no less than twenty (20) feet from the front property line unless the garage is designed as a side-entry garage and adequate off-street parking is provided outside the public right of way.

(h) Signs.

(1) Signs may be located within the required yards only as expressly permitted by the sign regulations of this chapter.

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§111- 120. Screening and Buffering

(a) Applicability.

(1) Screening and buffering shall be required where nonresidential or multifamily uses abut residential districts.

(b) Required screening.

(1) Screening shall consist of:

- (i) A solid fence not less than six (6) feet in height;
- (ii) A masonry wall;
- (iii) Dense evergreen landscaping; or
- (iv) A combination thereof.

(c) Installation and maintenance.

- (1) Required screening shall be installed prior to issuance of a certificate of occupancy.
- (2) Screening shall be continuously maintained in good condition;

(d) Alternative compliance.

- (1) Equivalent alternative screening methods may be approved administratively by the planning and development director.

§ 111-121. Fence regulations.

(a) Residential districts.

(1) Solid front yard fences.

- i. Solid fences located within the required front yard shall not exceed forty (40) inches in height.

(2) Open or ornamental front yard fences.

- i. Decorative, ornamental, or open-design fences located within the required front yard may exceed forty (40) inches in height, but shall not exceed six (6) feet in height, provided the fence maintains at least fifty (50) percent open visibility and does not obstruct a required sight visibility triangle.

(3) Sight visibility.

- i. Fences shall not obstruct required sight visibility triangles. See §111-581. Within a required sight visibility triangle, a fence shall not exceed forty (40) inches in height unless it is open-design and does not obstruct visibility as determined by the City Engineer or designee.

(b) Nonresidential and multifamily districts.

(1) Fence height.

- i. Solid fences in nonresidential and multifamily districts may be erected up to six (6) feet in height, provided visibility at intersections, driveways, alleys, and other access points is maintained. See §111-580.

(2) Front yard treatment.

- i. Within required front yards in MF, MU-N, MU-C, C-1, and C-2 districts, solid fences shall not exceed forty (40) inches in height unless approved as part of a site plan, screening plan, or other approval required by this chapter.

(3) Required screening.

- i. Where a fence is required for screening under this chapter, the fence shall comply with the screening and buffering standards of §111-120.

(c) Fence height measurement.

- i. Fence height shall be measured from the adjacent finished grade on the side of the fence where the height is greatest.

(d) Prohibited and security fencing materials.

- i. Barbed wire, razor wire, electrically charged fencing, and similar hazardous fencing materials shall be prohibited in residential districts.
- ii. Barbed wire, razor wire, or similar security fencing materials may be permitted in LI and HI districts only when located above a fence or wall at least six (6) feet in height, not within a required front yard, and not adjacent to a residential district, public sidewalk, public park, school, or pedestrian-oriented frontage.

(e) Maintenance.

- (1) All fences shall be maintained in a safe, upright, and structurally sound condition.
- (2) Fences that are leaning, collapsed, missing panels, visibly deteriorated, unsafe, or constructed or maintained with hazardous materials shall be repaired, replaced, or removed.

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§111-122. Administrative Adjustments.

(a) Authority.

(1) The planning and development director may approve minor administrative adjustments to the dimensional standards of this Article, subject to the limitations and criteria set forth in this section.

(b) Eligible adjustments.

(1) Administrative adjustments may apply only to the following standards established by this Article:

- i. Minimum yard setbacks;
- ii. Maximum lot coverage;
- iii. Projections into required yards;
- iv. Location or placement standards for accessory structures, carports, fences, screening, or similar site features where expressly regulated by this Article; and
- v. Similar dimensional standards expressly identified in this Article as eligible for administrative adjustment.

(c) Standards not eligible for administrative adjustment.

(1) Administrative adjustments shall not be used to modify:

- i. Minimum lot area;
- ii. Minimum lot width;
- iii. Minimum lot depth;
- iv. Maximum building height;
- v. Permitted uses;
- vi. Residential density or number of dwelling units;
- vii. Any standard or condition approved by the City Commission, Planning and Zoning Commission, or Zoning Board of Adjustment;
- viii. Any requirement that would otherwise require a variance, special exception, special use permit, plat approval, or ordinance amendment; or
- ix. Any requirement outside this Article, unless expressly authorized elsewhere in this chapter.

(d) Approval criteria.

(1) An administrative adjustment may be approved only where the planning and development director determines that:

- i. The adjustment does not exceed ten percent (10%) of the applicable standard;
- ii. The adjustment is necessary due to existing building placement, lot configuration, drainage constraints, easements, right-of-way conditions, or other site-specific physical conditions;
- iii. The adjustment is consistent with the intent of this Article;
- iv. The adjustment does not adversely affect adjacent property, public safety, drainage, access, or required sight visibility; and
- v. The adjustment does not create or expand a nonconforming use or authorize a structure that would be inconsistent with the purpose of the zoning district.

(e) Written determination.

(1) The Planning and development director shall issue a written determination stating the basis for approval or denial of an administrative adjustment.

(f) Appeals.

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(1) A decision of the Planning and development director under this section may be appealed in accordance with the applicable appeal procedures established by this chapter.

(Code 1997, § 159.047; Ordinance 97-35, adopted 7/2/1997; Ordinance 00-89, adopted 11/1/2000; Ordinance 03-31, adopted 5/21/2003)

§ 111-123. through § 111-138. (Reserved)

~~(a) Front yard.~~

~~(1) Residential and nonresidential:~~

~~a. No building, structure, or use shall hereafter be located, erected, or altered so as to have a smaller front yard than hereinafter required.~~

~~b. In the following zoning districts, the minimum required front yard shall be in accordance with the following schedule and no building, structure or use shall hereafter be located, erected or altered so as to have a smaller front yard than hereinafter required:~~

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Zoning Designation	Minimum Required Front Yard (in feet)												
	N	R1	R2	RPH	M1	M2	MH	PD	O	NS	GR	LI	HI
Minimum front yard	50	20±	20±	10±	20±	20±	10	varies	na	20	na	na	na

Notes:

* Garage must be set back no less than 20 feet unless said garage is constructed as "side entry" and the appropriate off-street parking area is available between the garage and the property line.

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1. Townhouses, when located in R-1, R-2, R-PH, M-1 or M-2 districts, may have a front yard of 10 feet, except that no structure may be erected within the sight triangle (if applicable) as indicated in section 111-581.

2. Garden/patio homes, when located in R-1, R-2, R-PH, M-1 or M-2 districts, may have a front yard of 10 feet, except that no structure may be erected within the sight triangle (if applicable) as indicated in section 111-581.

3. In the O, GR, LI and HI districts, no front yard is required except that no structure may be erected nearer than 30 feet to the centerline of any street upon which such structure fronts or within the sight triangle (if applicable) as indicated in section 111-581.

(2) Where the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yards shall comply with the requirement of the most restrictive district for the entire frontage.

(3) Where a building line has been established by plat or ordinance and such line requires a greater or lesser front yard setback than is prescribed by this article for the district in which the building line is located, the required front yard shall comply with the building line so established by such ordinance or plat.

(4) The front yard shall be measured from the property to the front face of the building, covered porch, covered terrace, or attached accessory building. Eaves and roof extensions may project into the required front yard for a distance not to exceed four (4) feet.

(5) Where lots have double frontage, running through from one street to another, a required front yard shall be provided on one street only.

(6) If 30 percent or more of the frontage on one side of a street between two intersecting streets in any residential district is improved with buildings prior to the effective date of the ordinance from which this article is derived that have observed an average front yard line with a variation in depth of not more than six (6) feet, then the average front yard so established shall be observed.

(7) Signs. Signs, where permitted, may be exempt from placement in front yard setbacks if otherwise allowable under this chapter.

(b) Side yard. In the following zoned districts, the minimum required side yard shall be in accordance with the following schedule and no building, structure, or use shall hereafter be located so as to have a smaller side yard on each side of such building than therein required.

(1) Residential zones (N, R-1, R-2). Five (5) feet is required to be open and unbuilt on each side of a primary structure. The five foot side setback shall be maintained except in a subdivision established prior to February 2, 1983.

a. Such previously established subdivisions have side setbacks of three (3) feet on the west and north and seven (7) feet on the east and south. In these instances, the side setbacks shall conform to the established setbacks in the subdivision.

b. Where a building line has been established by plat or ordinance and such line requires a greater or lesser side yard setback than is prescribed by this article for the district in which the building line is located, the required side yard shall comply with the building line so established by such plat or ordinance.

c. In the original townsites, for residential lots which are established by plat to be 25 feet wide, the side setbacks shall be set at three (3) feet on the west and north and six (6) feet on the east and south.

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(2) R-PH zones:

- a. ~~Five (5) feet minimum on each side of structure (regardless of housing type);~~
- b. ~~If a single family unit, zero setback on one side and a minimum 10-foot setback on the side opposite the zero side; or~~
- c. ~~If a single duplex unit placed on two lots, zero setback on both sides of the common property line and a minimum ten-foot setback on the sides of both lots opposite the zero side.~~

~~In no case shall any residential structure in an R-PH zone be closer than 10 feet from any other residential structure.~~

~~(3) Multiple family zones (M-1, M-2). Multiple family buildings shall provide a minimum side yard of 10 feet between any building wall and the lot line.~~

~~(4) For nonresidential zones, None, except that no structure may be erected within the sight triangle (if applicable) as indicated in section 111-581 and as specified in subsection (b)(5) of this section.~~

(5) Special:

a. ~~Overhangs. Every part of a required side yard shall be open and unobstructed except for accessory buildings as permitted herein and the ordinary projections of window sills, belt courses, cornices, and other architectural features projecting not to exceed 12 inches into the required side yard, and roof eaves projecting not to exceed 36 inches into the required side yard. Shrubs, air conditioners, and fencing shall be permitted in the side yard.~~

b. ~~Multiple family building overhangs and multiple family building on a corner lot. On a corner lot, a side yard adjacent to a street for a multiple family dwelling in excess of two (2) units shall not be less than 15 feet and no balcony or porch of any portion of the building may extend into such required side yard except that a roof may overhang such side yard not to exceed four feet.~~

c. ~~Single family dwellings on a corner lot. On a corner lot, no residential or nonresidential structure may be erected within the sight triangle as indicated in section 111-581. On a corner lot used for one family or two family dwellings there shall be a setback on the side street of 10 feet on all lots platted after the effective date of the ordinance from which this article is derived.~~

d. ~~Planned developments. The minimum side yard requirements in a planned development district shall be established on the site plan which shall be made a part of the amending ordinance.~~

e. ~~Requirements for district dividing lines between residential and nonresidential districts. No side yard is specified for nonresidential use in the O, NS, GR, LI, and HI districts except where a commercial, retail, or industrial or other nonresidential use abuts upon a district boundary line dividing such districts from a residential district, in which event a minimum 10-foot side yard shall be provided on the side adjacent to such residential district. However, the owner, developer, renter, and/or user shall provide and permanently and adequately maintain a solid screening fence of redwood and/or cedar, not less than six (6) feet in height in the side yards of the property dividing the district from any residential district listed herein. The requirement of the fence shall be required every time there is a change in occupancy and/or the building is clear to be re-energized. The building must be set back no less than 10 feet from such abutting property line, such screen shall set back that distance unless provided otherwise in this article. However, if the~~

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screening fence is extended into the front yard, the fence must taper down from a minimum six (6) feet in height to a maximum of 40 inches starting at the more restrictive zone at a three to one (3:1) ratio. Landscaping may be used in lieu of dividing fence if all plants used for landscape screens are planted in a dense pattern and shall, upon reaching maturity, be not less than six (6) feet in height. Initial landscape height shall be no less than 40 inches. Landscape screening shall be installed at the same time as the building construction.

f. ~~Townhouses.~~ Townhouses may have no side yard requirement, except as specified in subsection (b)(5)e of this section.

(e) ~~Rear yard.~~ No building or structure shall hereafter be located, erected, or altered to have a rear yard smaller than herein required.

(1) ~~No main residential building may be constructed nearer than 10 feet from the rear property line, except in the R-PH Zone where the minimum rear setback shall be five (5) feet.~~

(2) ~~Where a building line has been established by plat or ordinance and such line requires a greater or lesser rear yard setback than is prescribed by this article for the district in which the building line is located, the rear yard shall comply with the building line so established by such plat or ordinance.~~

(3) ~~No rear yard setback requirement for O, NS, GR, LI and HI districts; however, the owner and/or developer shall provide and permanently and adequately maintain a solid screening fence not less than six (6) feet in height in the rear yard of the property. The requirement of the fence shall be required every time there is a change in occupancy and/or the building is clear to be re-energized. A minimum rear yard of not less than 10 feet shall be provided in O, NS, GR, LI and HI districts, dividing the district from any of the residential districts listed herein.~~

(4) ~~Rear yard setback for multiple family buildings shall be not less than 10 feet.~~

(d) ~~Special exception for carports.~~

(1) ~~The zoning board of adjustment may grant a special exception to the minimum setback requirements for a carport when, in the opinion of the board:~~

a. ~~The carport will not have a detrimental impact on surrounding properties.~~

(2) ~~In determining whether to grant this special exception, the board shall consider the following factors:~~

a. ~~Whether the requested special exception is compatible with the character of the neighborhood.~~

b. ~~Whether the value of surrounding properties will be adversely affected.~~

c. ~~The suitability of the size and location of the carport~~

d. ~~The materials to be used in construction of the carport~~

(3) ~~Storage of items other than motor vehicles is prohibited in a carport for which a special exception has been granted under this subsection.~~

(4) ~~If the zoning board of adjustments grants a special exception as provided in this section, the site plan and the minutes of the zoning board of adjustments meeting shall be officially recorded with Cameron County.~~

(5) ~~Any special exception granted under this chapter shall run with the land and may be transferred, sold, inherited, bequeathed, or devised.~~

(6) ~~A new special exception shall not be required upon any change or transfer in ownership of the underlying tract; a special exception granted to a previous applicant does~~

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~~confer any right to any other individual or corporation to maintain the carport without approval from the zoning board of adjustment.~~

~~(7) No carport for which a special exception has been granted under this subsection shall exceed 400 square feet in size.~~

~~(Code 1997, § 159.046; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 01-16, adopted 2/21/2001; Ordinance 03-31, adopted 5/21/2003; Ordinance 07-27, adopted 4/18/2007; Ordinance 2023-48, § I, adopted 11/1/2023)~~

§ 111-120. Fence regulations.

~~Single-family and duplex residential. Front yard fences extending past the forward most portion of the house structure to the front and side lot property lines may be constructed and maintained under the following terms and conditions:~~

~~(1) Solid face fences, such as solid masonry face fence, shall be restricted to a height of not more than 40 inches above the grade of the yard.~~

~~(2) Ornamental and decorative fence, such as ornamental iron, allowing reasonable through vision and substantially free air flow shall have no height restrictions other than that applicable to permanent structures.~~

~~(3) Solid rear fences are subject to the sight triangle on a corner where a street or alley intersects with another. (See section 111-581.)~~

~~(b) Nonresidential (including triplex, quadruplex and multifamily). Solid face front yard fences may be maintained at a height of no more than six (6) feet up to lot line providing they do not obstruct traffic view for an approach of at least 15 feet on an approach to a street and 10 feet on the approach to an alley. (See section 111-580.)~~

~~(Code 1997, § 159.047; Ordinance 97-35, adopted 7/2/1997; Ordinance 00-89, adopted 11/1/2000; Ordinance 03-31, adopted 5/21/2003)~~

~~§ 111-121. through § 111-138. (Reserved)~~

ARTICLE VI

OFF-STREET PARKING, STACKING AND LOADING; ON-STREET PARKING

§ 111-139. Purpose.

It is the purpose of this article to establish the guidelines for off-street parking spaces consistent with proposed land use to:

- (1) Eliminate nonresident on-street parking in adjoining neighborhoods.
- (2) Avoid traffic congestion and public safety hazards caused by a failure to provide such parking spaces.

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

(Code 1997, § 159.060; Ordinance 97-35, adopted 7/2/1997; Ordinance 14-33, § I, adopted 9/3/2014)

§-111-140. Off-street parking.

- (a) Each off-street parking space for automobiles shall have an area of not less than 9 feet by 18 feet connected either to a public street or alley by a driveway no less than 10 feet wide or directly adjacent to a public alley and so arranged as to permit ingress and egress of the automobile at all times without moving any other automobile. (See spacing chart in section 111-582 for driveway aisles required at differing angles of parking arrangements.) There shall be adequate maneuvering space to eliminate backing into a public street. When off-street parking spaces are located adjacent to a public alley, the width of such alley may be assumed to be a portion of the maneuvering space requirement. The parking spaces, connecting driveways and public alley adjacent to the parking spaces for all businesses and residential uses as defined in section 111-62 shall be of asphalt or concrete surface. Residential garages that allow for a minimum of one (1) standard sized automobile shall be credited as one (1) off-street parking space in meeting these requirements.
- (b) Off-street parking shall be provided on the residence use and/or other permissive zoned use lot or tract (or other and additional lots or tracts, for such off-street parking purposes, located within reasonable use proximity to such residence use or other permissively zoned use property) sufficient to provide the following ratio of vehicle spaces for the following uses specified in the districts designated:
- (1) Parking space schedule: residential uses in all residential use districts:
- a. Single-family residence: Two (2) spaces for each dwelling unit;
 - ~~b.~~ Multifamily residence (including duplex, triplex, quadruplex and more units): One (1) and one half (1.5 parking spaces per dwelling unit); and
 - ~~b.~~
 - c. Townhouse, condominium, or garden home: Two (2) spaces for each dwelling unit.
- (2) Parking space schedule: nonresidential uses in all nonresidential use districts:
- a. Assisted living facility: Two (2) spaces for each living unit;
 - b. Bars, taverns, or nightclubs: One (1) space for each 100 square feet of floor area or one (1) for each two (2) seats provided, whichever is greater;

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- c. Beauty shop: One (1) space for each 300 square feet of floor area;
- d. Bowling alley: Six (6) spaces for each lane;
- e. Call center: One (1) space for each 150 square feet of floor area;
- f. Churches: One (1) space for each four seats in auditorium or sanctuary;
- g. Clinics or doctors' offices: One (1) space for each 200 square feet of floor area;
- h. Day care: One (1) space for each 400 square feet of floor area, plus loading area requirements;
- i. Farmers market: Two (2) parking space for each vending booth or one (1) parking space for each 400 square feet of vending area plus one (1) for each vendor, whichever is greater;
- j. Food truck park: One (1) parking space for every 3.5 persons at maximum occupancy as submitted by the applicant in his/her special use permit application;
- j.k. Group Home: One (1) parking space for each four (4) beds;
- k.l. Community residential facility, halfway house-/residential re-entry center, and sober living facility: One (1) parking space per bedroom, plus one (1) for each employee at the highest staff shift;
- l.m. Hospitals: Two (2) spaces for each bed;
- m.n. Hotel or motel: One (1) space for each room, unit or guest accommodation;
- n.o. Manufacturing, storage, processing and warehousing: One (1) space for each two (2) employees, or one (1) space for each 1,000 square feet of floor area, whichever is larger;
- o.p. Mechanic/auto repair: One (1) space for each 300 square feet of floor area not including service bays;
- p.q. Mortuary: One (1) space for every two (2) persons to be normally accommodated in services;
- q.r. Nursing homes, sanitariums, children's homes: One (1) space for each six (6) beds;
- r.s. Offices, general: One (1) space for each 400 square feet of floor area;
- s.t. Recreational, private or commercial area building (other than listed): One (1) space for every two (2) persons to be normally accommodated in the establishment;
- t.u. Restaurant without drive-through service: One (1) space for every three (3) seats under maximum seating arrangement or one (1) for every 250 square

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feet of dining area, plus one (1) for each employee to be on the premises at the highest staffed shift, whichever is greater;

~~u.v.~~ Restaurant with drive-through service: One (1) space for every four (4) seats under maximum seating arrangement or one (1) for every 400 square feet dining area plus one (1) for each employee to be on the premises at the highest staffed shift, whichever is greater;

~~w.~~ Retail or personal service: One (1) space for each 400 square feet of floor space;

~~x.~~

~~w.x.~~ Schools, colleges or universities:

1. Elementary or junior high schools: one (1) space for each classroom, plus one (1) space for each six (6) seats in any auditorium, gymnasium or other place of assembly; and
2. High school, college or university: One (1) space for each classroom, laboratory or instruction area, plus one (1) space for each three (3) students accommodated in the institution;

~~z.y.~~ Self-Storage Facility: One (1) parking space for each 40 storage units, plus one parking space for each 250 square feet of office area.

~~z.~~ Theaters, meeting rooms and places of public assembly: One (1) space for every 3.5 seats;

~~y.aa.~~ Any unlisted nonresidential use shall provide off-street parking adequate to accommodate the normal parking demand generated by such use as determined by the director of planning and development or other designated official; and

~~bb.~~ All uses must provide (and utilize) adequate parking for business patrons as well as employees.

~~z.~~

(Code 1997, § 159.061; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 03-31, adopted 5/21/2003; Ordinance 04-04, adopted 2/4/2004; Ordinance 05-11, adopted 3/16/2005; Ordinance 07-27, adopted 4/18/2007; Ordinance 12-14, § I, adopted 3/7/2012; Ordinance 14-33, § I, adopted 9/3/2014; Ordinance 2021-07, § I, adopted 2/17/ 2021; Ordinance 2024-30 adopted 7/3/2024)

§ 111-141. Special off-street parking regulations.

- (a) In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements for each class of use included in the building or development. Any partial parking spaces calculated must be rounded up to the next whole space.

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- (b) Wherever a lot or tract is used for off-street parking of motor vehicles in connection with an office, retail, commercial or industrial use and is adjacent to or across the street from a residentially zoned district, a masonry wall or solid ornamental fence of not less than three (3) feet nor more than six (6) feet in height shall be erected and maintained so as to enclose the off-street parking area so as to screen the parking use from adjacent residential districts.
- (c) The area in front of the required screening wall or fence shall be maintained in a clean and orderly condition free of weeds, debris and trash.
- (d) Any lights used to illuminate the parking area shall be so arranged so as to reflect away from any adjacent residential uses or residential districts.
- (e) In the N, R-1, R-2, ~~ME M-1, M-2~~ and MH districts, no parking space, garage or carport or other automobile storage space or structure shall be used for the storage of any truck, truck trailer or van except panel and pickup trucks not exceeding 1.5 ton capacity. In addition, no trucks exceeding 1.5 ton capacity shall be parked on the right-of-way in such designated zones.
- (f) All required parking, other than single-family residential use parking or residential duplex use parking (when located within an R-2 zone or in other allowable zones when on a street not designated as a collector or an arterial street on the most current adopted version of the long range thoroughfare plan in the City of Harlingen's Comprehensive Plan), shall be designed so that adequate on-site turn around area is provided.
- (g) There is no requirement for off-street parking in the downtown improvement district for new uses which occupy existing buildings, and new construction of a building on a lot which was previously occupied with a building of similar size; if the square footage of the building is increased, the existing parking requirements in the article will apply to additional square footage only.

- (h) A similar type of use which occupies an existing building that is using the same footprint that existed prior to the last approved occupancy shall be permitted to operate with the existing parking on site. If the square footage of the building is increased, the existing parking requirements in the article will apply to additional square footage only.

(g)

(Code 1997, § 159.062; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 02-84, adopted 9/4/2002; Ordinance 07-27, adopted 4/18/2007; Ordinance 14-33, § I, adopted 9/3/2014)

§ 111-142. On-street parking regulations.

- (a) No person shall park or cause to be parked on a right-of-way of any street, alley or other public way in the city for a period exceeding 24 hours in any 14-day period commercial trucks, truck trailers, truck cabs, boats and boat trailers, and 48 hours in

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any 14-day period for motor homes and travel trailers. The moving of any such vehicle from one particular place in a public way to another particular place in a public way shall not be considered compliance with the above described provision.

- (b) It shall be unlawful to park and occupy any motor vehicle or recreational vehicle on city owned park property for more than 24 hours.
 - (1) Recreational vehicles parked and occupied in an area designated for recreational vehicles are exempt from this section.
 - (2) Motor vehicles shall mean every self-propelled device in, upon, or by which any person or property is or may be transported upon a highway, including a semi-tractor trailer with or without an attached storage box. The term "recreational vehicle" shall mean any motor vehicle or trailer designed and used as a travel trailer, camper, motor home, tent trailer, boat, boat trailer, camping trailer.
- (c) In addition, in the N, R-1, R-2, ~~MFM-1, M-2,~~ and MH districts, no semi tractor-trailer with or without an attached storage box shall be parked on the right-of-way or stored on any lot in such designated zones.
- (d) The provisions of this section shall not apply to street construction equipment, maintenance and repair equipment or trucks, equipment trailers or vehicles used by public service utilities when used or intended for use in the general vicinity, and vehicles parked while in the act of accepting from the immediate shipper or delivering to an addressee any transportable thing.

(+)

(Code 1997, § 159.063; Ordinance 97-35, adopted 7/2/1997; Ordinance 03-31, adopted 5/21/2003; Ordinance 08-29, adopted 4/2/2008; Ordinance 14-30, § I, adopted 9/3/2014; Ordinance 14-33, § I, adopted 9/3/2014)

§ 111-143. Stacking regulations for drive-throughs.

All drive-through uses shall provide adequate stacking area for at least ~~two (2)~~ three (3) vehicles, in addition to the car being served, for each drive-through lane provided. A stacking space is 12 feet wide by 20 feet long. A 12-foot wide bypass lane shall be required adjacent to the stacking lane to allow vehicles to circumvent the stacking lane, or as determined by the Planning and Development Director, Planning and development director, and/or City Engineer.

(Code 1997, § 159.064; Ordinance 03-31, adopted 5/21/2003; Ordinance 08-29, adopted 4/2/2008; Ordinance 14-33, § I, adopted 9/3/2014)

§ 111-144. Loading regulations.

Off-street loading space shall be provided on each lot in accordance with the following:

- (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 public alley or private service drive. Such space shall consist of a minimum area of ~~40~~ 12 feet by ~~75~~ 60 feet for each 20,000 square feet of

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floor space or fraction thereof in excess of 3,000 square feet in the building or on the lot.

- (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 10 students or children cared for by the establishment.

(Code 1997, § 159.065; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 03-31, adopted 5/21/2003; Ordinance 08-29, adopted 4/2/2008; Ordinance 14-33, § I, adopted 9/3/2014)

§ 111-145. through § 111-171. (Reserved)

ARTICLE VII ~~RESERVED~~ HEIGHT REGULATIONS

~~§ 111-172. through § 111-199. (Reserved)~~

~~§ 111-172. Residential height restrictions.~~

~~No building or structure shall be located, erected, or altered in any residential zone so as to exceed three (3) stories without prior public hearing and approval by the board of adjustment as provided by this chapter.~~

~~(Code 1997, § 159.070; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 2024-63 adopted 10/21/2024)~~

~~§ 111-173. Nonresidential height restrictions.~~

~~In nonresidential zones, the permissible building heights shall be consistent and compatible with the surrounding buildings and shall not place an undue significant burden on adjacent or nearby properties. Buildings greater than five (5) stories shall require a special use permit and approval of the city commission. Properties zoned Light Industry (LI) or Heavy Industry (HI) are exempt from any height regulations.~~

~~(Code 1997, § 159.071; Ordinance 97-35, adopted 7/2/1997; Ordinance 2024-63 adopted 10/21/2024)~~

~~§ 111-174. through § 111-199. (Reserved)~~

ARTICLE VIII TOWER REGULATIONS

§ 111-200. Definitions.

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

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- (a) **Antenna array** means one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omnidirectional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The term "antenna array" does not include the term "support structure" defined in this section.
- (b) **Attached wireless communications facility (attached WCF)** means an antenna array that is attached to an existing building or structure (attachment structure), which structures shall include, but not be limited to, utility poles, signs, water towers, with any accompanying pole or device (attachment device) which attaches the antenna array to the existing building or structure and associated connection cables, and an equipment facility which may be located either inside or outside of the attachment structure.
- (c) **Collocation/site sharing** means use of a common WCF or common site by two (2) or more wireless license holders or by one (1) wireless license holder for more than one (1) type of communications technology and/ or placement of a WCF on a structure owned or operated by a utility or other public entity.
- (d) **Development standards** means those standards set forth in section 111-203.
- (e) **Equipment facility** means any structure used to contain ancillary equipment for a WCF which includes cabinets, shelters, a buildout of an existing structure, pedestals, and other similar structures.
- (f) **Height**, when referring to a WCF, means the distance measured from ground level to the highest point on the WCF, including the antenna array.
- (g) **Lattice tower** means a guyed or self-supporting three-or four-sided, open steel frame structure used to support telecommunications equipment.
- (h) **Monopole** means a structure composed of a single spire used to support telecommunications equipment.
- (i) **Residential district** means any section of the city zoned for ~~Single family (R-1), Duplex (R-2), 3/4 Plex (M-1), Multi Family (M-2),~~ Mobile Home (MH) or ~~Planned Development (P MU-N, MU-CD), designated on site plan as residential use.~~
- (j) **Review process** means those processes set forth in section 111-204.
- (k) **Setback** means the required distance from the property line of the parcel on which the WCF is located to the support structure.
- (l) **Support structure** means a structure designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device (attachment device) of a maximum of 20 feet in height which is used to attach a WCF to an existing building or structure (attachment structure) shall be excluded from the definition of and regulations applicable to support structures.
- (m) **Temporary wireless communications facility (temporary WCF)** means a WCF to be placed in use for 120 or fewer days.
- (n) **Tower** means a stand-alone structure consisting of a support structure, antenna and associated equipment. The support structure may be a wooden pole, monopole, lattice tower, light standard, or other vertical support.
- (o) **Wireless communications** means any personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed.

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

(Code 1997, § 159.076; Ordinance 98-14, adopted 4/15/1998)

§ 111-201. Purpose and goals.

The purpose of this article is to establish general guidelines for the siting of wireless communications facilities. The goals of this article are to:

- (1) Accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community;
- (2) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;
- (3) Minimize adverse visual effects of WCFs through careful design and siting standards;
- (4) Avoid potential damage to adjacent properties from WCF failure through structural standards and setback requirements;
- (5) Maximize the use of existing and approved WCFs and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of WCFs needed to serve the community; and
- (6) Be in accordance with all aspects of the Federal Telecommunications Act of 1996. (Code 1997, § 159.075; Ordinance 98-14, adopted 4/15/1998)

§ 111-202. Applicability.

- (a) **Pre-existing WCFs.** WCFs for which a permit has been issued prior to the effective date of the ordinance from which this article is derived shall not be required to meet the requirements of this article as further specified in section 111-207.
- (b) **Exclusion for amateur radio facilities.** This article shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.
- (c) **Relationship to other ordinances.** This article shall supersede all conflicting requirements of other codes and ordinances regarding the locating and permitting of WCFs.
- (d) **Map indicating WCFs.** The department of planning and development shall create a map indicating pre-existing WCFs and shall maintain map of new structures as they enter the city.

(Code 1997, § 159.077; Ordinance 98-14, adopted 4/15/1998)

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§ 111-203. Development standards for WCFs.

- (a) WCFs and antennas are a permitted use in any general ~~retail~~commercial, light industrial~~y~~ or heavy industrial~~y-ial~~ zoned district if the following requirements are satisfied:
- (1) The WCF is a minimum of 200 feet from any residential zoning district. (See definition in section 111-200.)
 - (2) WCF height, excluding antenna array, does not exceed:
 - a. 100 feet, if the WCF is at least 200 up to 250 feet from any residential district.
 - b. 125 feet, if the WCF is at least 250 up to 540 feet from any residential district.
 - c. 150 feet, if the WCF is 540 feet or more from any residential district.
 - (3) The antenna array does not exceed WCF height by more than 20 feet.
 - (4) All guys and guy anchors are set back a minimum of 20 feet from any property line.
 - (5) The WCF is erected and operated in compliance with current Federal Communication Commission and other applicable federal, state and county standards.
 - (6) The WCF is of monopole construction if located within 540 feet of any residential district.
- (b) The requirement of subsection (a)(1) of this section shall be waived:
- (1) If the proposed WCF is erected to replace existing poles and either:
 - a. The pole replaced is a functioning utility pole or light standard within a utility easement or public right-of-way, recreation facility light pole or WCF; or
 - b. Replacement WCF height, including antenna array, does not exceed;
 1. The height of the original utility, light standard, or recreation facility pole by more than 10 feet; or
 2. The height of the original WCF and antenna array by more than 10 feet; and
 3. The replacement WCF does not obstruct a public sidewalk, public alley, or other public right-of-way; and
 4. Pole function is not significantly altered.
 - (2) If the WCF erected is to be used by a public agency for police, fire, EMS, 911, or other similar public emergency communications for the city.

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- (c) Temporary WCF's, for emergency purposes, for a term not to exceed 120 days, with a possible 60-day extension with approval of the ~~chief building official~~chief building official, are permitted outright.
- (d) Distances in this section shall be measured along a single straight line between the center of the tower base and the nearest point on any property line of a residential zoning district or use. For the purposes of applying the restrictions set forth in subsections (a)(1), (2) and (6) of this section, the term "residential district" excludes property that is:
 - (1) Vacant, unplatted and unzoned;
 - (2) Used as a public or private primary or secondary educational facility;
 - (3) Used as a college or university education facility;
 - (4) Owned by the United States, the State of Texas, Cameron County or the City of Harlingen, and not used for residential uses;
 - (5) Used primarily for religious assembly; or
 - (6) Occupied by nonresidential, nonconforming uses.
- (e) Setbacks.
 - (1) WCFs shall be located so as to provide a minimum distance from the tower to all property lines equal to 20 percent of the height of the tower.
 - (2) WCFs shall be set back a minimum of 50 feet from any existing or planned street right-of-way line.
- (f) Fencing and landscaping.
 - (1) All WCFs and support facilities shall be surrounded by a chainlink fence with some privacy covering six (6) feet in height from finished grade. Access to the WCF shall be through a locked gate. Barbed wire may be allowed along the top of the fence if it is necessary to preclude unauthorized access to the WCF.
 - (2) The fence shall be landscaped along the perimeter by drought tolerant plants or shrubbery or plants native to the South Texas Region.
- (g) Additional uses permitted on lot. WCFs may be located on lots containing another principal use, and may occupy a leased parcel on a lot meeting the minimum lot size requirement of the district in which it is located. Towers and their associated equipment shall be separated from other structures on the lot by a minimum distance of six (6) feet.
- (h) Required off-street parking. One (1) parking space is required.
- (i) Radio frequency emissions. The Federal Telecommunications Act of 1996 (FTA) gives the Federal Communication Commission (FCC) sole jurisdiction of the field of

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regulation of radio frequency (RF) emissions and WCFs which meet the FCC standards shall not be conditioned or denied on the basis of RF impacts.

- (j) Height exceptions for airport overlay zones. No variance requests will be accepted or approved for height exceptions within the airport overlay zones as established in section 111-532(b)(2) and (b)(3). These zones are based on the elevation contour map in the vicinity of the Valley International Airport as established in section 111-532(c).

(Code 1997, § 159.078; Ordinance 98-14, adopted 4/15/1998; Ordinance 01-16, adopted 2/21/2001; Ordinance 01-35, adopted 4/18/2001)

§ 111-204. Approval procedures.

(a) Permitted outright.

- (1) Where a facility is permitted outright as described in section 111-203, only a building permit is required which shall be passed through the department of planning and development to be checked for compliance.
- (2) Application requirements. Any person, firm, corporation, or other entity desiring to build a telecommunication facility within the corporate city limits must obtain a building permit, pay appropriate fees and submit a signed application that includes all materials and information detailed herein.
 - a. Name of applicant.
 - b. Address of applicant.
 - c. Vicinity map to illustrate location of proposed site.
 - d. Description of support structure and antenna height.
 - e. Photos and/or drawings of all equipment, structures and antennas.
 - f. Names and addresses of telecommunication providers or users of the proposed WCF or antenna.
 - g. Applicant's master WCF plan for the city and surrounding area, if necessary.
 - h. Detailed account of collocation efforts.
 - i. If a new WCF is allowed, the owner must certify in writing a willingness to allow collocation at the new site.
 - j. Any other information as necessary for the ~~chief building official~~chief building official to make a determination for permit issuance.

(b) Administrative review.

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- (1) Review of WCFs under this section will be conducted by the planning and development department upon application to the ~~chief building official~~chief building official for a building permit for the WCF.
- (2) Review criteria. The planning and development department shall apply the development standards, provided that the applicable development standards requirements may be reduced or waived by the administrator so long as the approval of the WCF meets the purpose and goals of this article as set out in section 111-201.
- (3) Timing of decision. The planning and development department shall render a decision on a complete building permit application within 30 days after receipt, except that an extension may be agreed to by the applicant.

(c) Appeals. If a tower is not allowed outright and/or administrative approval is not allowable, or is denied, the applicant may appeal said denial in accordance with the provisions of article XVI of this chapter.

(Code 1997, § 159.079; Ordinance 98-14, adopted 4/15/1998; Ordinance 03-31, adopted 5/21/2003)

§ 111-205. Shared facilities and collocation policy.

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

(Code 1997, § 159.080; Ordinance 98-14, adopted 4/15/1998)

§ 111-206. Removal of abandoned WCFs.

Any WCF that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such WCF shall remove same within 90 days of notice to the ~~chief building official~~chief building official that the WCF is abandoned. If such WCF is not removed within said 90 days, the ~~chief building official~~chief building official may remove or cause to be removed such WCF at the owner's expense. If there are two (2) or more users of a single WCF, then this provision shall not become effective unless all users cease using the WCF. (Code 1997, § 159.081; Ordinance 98-14, adopted 4/15/1998)

§ 111-207. Nonconforming WCFs.

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

- (1) Nonconforming WCFs may continue in use for the purpose now used, but may not be expanded without complying with this article, except as further provided in this section.

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- (2) Nonconforming WCFs which are hereafter damaged or destroyed no more than 50 percent or greater, due to any reason or cause, may be repaired and restored to their former use, location and physical dimensions subject to obtaining a building permit therefor, but without otherwise complying with this article.
- (3) The owner of any nonconforming WCF may replace, repair, rebuild and/or expand such WCF in order to improve the structural integrity of the facility, to allow the facility to accommodate collocated antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of this article, so long as such facilities are not increased in height by more than 20 feet and/or setbacks are not decreased by more than 10 percent.

(Code 1997, § 159.082; Ordinance 98-14, adopted 4/15/1998)

§ 111-208. Modifications to existing facilities or pre-existing facilities which meet the requirements of this article.

Minor modifications to WCFs permitted under this article shall be approved under an administrative review.

(Code 1997, § 159.083; Ordinance 98-14, adopted 4/15/1998)

§ 111-209. through § 111-239. (Reserved)

ARTICLE IX LANDSCAPE REGULATIONS

§ 111-240. Definitions.

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

- (a) **Berm** means an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.
- (b) **Building site** means the total area that is owned by the developer and proposed to be improved, including easements, but not rights-of-way.
- (c) **Caliper** means the diameter of a tree at six (6) inches above natural grade.
- (d) **Dripline** means the vertical line extending from the outermost portion of the tree canopy to the ground.
- (e) **Ground cover** means low growing plants in such a manner as to form a continuous cover over the ground, normally reaching an average maximum height of not more than 24 inches at maturity. Grass is not classified as a ground cover for purposes of this article.
- (f) **Historic tree** means any protected tree having a trunk circumference of 60 inches or more measured at 4.5 feet above natural grade.

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- (g) Nonresidential means ~~Triplex/Quadruplex (M-1), Multi-Family (M-2), MU-N, MU-C, C-1, C-2, E, I, LI, HI, Planned Development (PD) where site plan indicates nonresidential uses, Neighborhood Services (NS), Office (O), General Retail (GR), Light Industrial (LI) or Heavy Industrial (HI), and~~ any other nonresidential zoning district as may be created hereafter.
- (h) Parking, interior, means parking rows which are not located on the periphery of the proposed project site and do not abut any property line associated with the site.
- (i) Parking rows means single or double rows. Double rows are face to face parallel rows of spaces for the parking of motor vehicles.
- (j) Protected tree means any tree, regardless of species, having a trunk circumference of 24 inches, or caliper of greater than eight (8) inches, measured at four (4) feet above natural grade.
- (k) Residential means ~~Single-Family Residential (R-1), Duplex Residential (R-2), Manufactured Housing/Mobile Home Residential (MH), and Planned Development MU-N, and MU-C~~ (if site plan shows only residential uses).
- (l) Tree means any self-supporting woody plant of a species which normally grows to an overall height of a minimum of 15 feet in the Lower Rio Grande Valley.
- (m) Tree removal means any act which may reasonably be expected to cause a protected tree to decline and die, including, but not limited to:
- (1) Severing the trunk.
 - (2) Excessive pruning or mechanical damage to the trunk or branching system, bark or cambium layer.
 - (3) Damage to the root system by machinery or soil compaction.
 - (4) Substantial change of natural surface grade or drainage pattern within the dripline.
 - (5) Excessive paving with impervious materials within the dripline.
 - (6) Direct or indirect application of toxic chemicals, fire, or other damaging substance to tree or root system.
- (n) Wheel or curb stops means permanently secured, durable devices designed to restrict vehicular encroachment.
- (o) Xeriscape means landscaping by use of plants structurally adapted for life and growth with a limited water supply; commonly referred to as "drought resistant."

(Code 1997, § 159.087; Ordinance 01-50, adopted 6/20/2001; Ordinance 11-63, § I, adopted 12/27/ 2011)

§ 111-241. Purpose and objectives.

- (a) It is the intent of this section to establish minimum standards for the provision, installation, protection and maintenance of landscape materials in new nonresidential developments ~~in order~~ to promote the orderly, safe and environmentally sound development of land located within the corporate limits thereby promoting the health, safety and general welfare of the community. It is also aimed at achieving goals and objectives in the comprehensive plan.

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- (b) The regulations contained herein are necessary to enhance the community's aesthetic, environmental and economic structures. The importance of preserving and improving the natural environment and maintaining a working ecological balance is of increasing concern. ~~The use of landscape elements can effectively contribute to the processes of air purification, oxygen regeneration, water absorption and noise, glare and heat abatement, as well as the preservation of the community's aesthetic qualities.~~ The strategic use of landscape elements can significantly enhance environmental quality by supporting air purification, oxygen restoration, water absorption, and the reduction of noise, glare, and heat. Well designed landscapes help preserve and enrich character and overall appeal in the community.

- (c) It is ~~also~~ further recognized that ~~it is possible to realize~~ landscaping can provide numerous beneficial effects including but not limited to ~~of landscaping, including~~ the following:

- (1) Landscaping can minimize demands on the city storm sewer system by preserving natural drainage.
- (2) The improvement of air and water quality is achieved through such natural processes as photosynthesis and mineral uptake.
- (3) The use of trees and other plants reduces erosion by the binding of soil particles with their roots, thus holding the soil together against the effects of wind and water.
- (4) Vegetation reduces and/or reverses air, noise, heat and chemical pollution through the biological filtering capacities of trees and other vegetation.
- (5) Landscaping reduces hot air temperatures caused by paved surfaces and automobiles through the process of transpiration associated with green material. Vegetation also helps promote energy conservation through the creation of shade, reducing heat gain in, or on, buildings and paved areas.
- (6) Landscaping provides visual buffering and beautifies the appearance of setback and parking areas within the city.
- (7) The use of landscaping also enhances the safety of parking lots by guiding the circulation of cars and people and by ensuring that the driver's vision is unobstructed.
- (8) Preservation of landscaping protects, preserves and increases the value of property.
- (9) ~~The use of landscaping helps create natural habitats that supports~~ eco-tourism.

(Code 1997, § 159.085; Ordinance 01-50, adopted 6/20/2001; Ordinance 11-63, § I, adopted 12/27/ 2011)

§ 111-242. Applicability.

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- (a) This section shall apply to all new developments or redevelopment of nonresidential land uses in nonresidential zones. Nonresidential zones shall include ~~Multifamily Triplex/Quadruplex (M-1), High Density Residential Multifamily (MFR-3), Multifamily (M-2), Planned Development (PD),~~ Neighborhood Mixed Use (MU-N) if the site plan indicates nonresidential uses, ~~Neighborhood Services (NS), Office (O), General Retail (GR), Light Industrial (LI), Heavy Industrial (HI),~~ Neighborhood Commercial (C-1), Community Mixed Use (MU-C), General Commercial (C-2), Employment, Institutional, Light Industrial (LI), Heavy Industrial (HI), and any other zones created in the future that are nonresidential.
- (b) All developed property in such districts which do not comply with the provisions of this section on the effective date of the ordinance from which this section is derived shall be considered nonconforming and shall be allowed to continue to operate until such time as a building permit is sought to reconstruct or enlarge a structure on such property to an extent exceeding 60 percent of the current replacement cost of such structure. At that time, the provisions of this section shall apply, and said areas shall be brought into compliance. Such structures may be exempt when remodeling, if the exterior walls of the building remain the same.
- (c) Any nonresidential property on which one or more protected trees (as defined below) are located shall be subject to a tree removal permit prior to removal of such tree regardless of whether ~~or not~~ a building permit is being sought.

(Code 1997, § 159.086; Ordinance 01-50, adopted 6/20/2001; Ordinance 11-63, § I, adopted 12/27/ 2011)

§ 111-243. General requirements.

All landscaping shall be done with healthy plants and installed according to accepted good planting procedures. Landscaped areas shall be planned with consideration for the protection of plants from vehicular encroachment.

- (1) ~~Landscape plan.~~ Landscaped areas ~~shall~~ should be planned as an integral part of a development project. A landscape plan shall be submitted with building permit application. Said plan will need to indicate the following elements:
- Lot boundary lines and accurate dimensions.
 - Total area of the lot and computation of required landscaped areas including number of required trees.
 - Clearly delineate any existing trees to remain indicating caliper for full credit, any protected trees and all proposed landscape development.
 - Clearly delineate proposed water sources and distance from landscaped areas.
 - Detailed drawing of the existing and/or proposed off-street parking and other paved areas.

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f. The location and dimensions of any existing and/or proposed buildings.

(2) Landscape area requirements. Landscaping shall be generally provided as follows:

a. ~~Commercial~~ Neighborhood Mixed Use (if the site plan shows commercial), Community Mixed Use (if the site plan shows commercial and/or employment), Neighborhood Commercial, General Commercial, Employment, Institutional, Light Industrial, and Heavy Industrial areas:

1. 10 percent of gross building site area.
2. At least 70 percent of the required landscaping requirement shall be located within the front or side yards of the site. (Exception: in the downtown improvement district, developers are encouraged to place buildings at the front property line to enhance pedestrian flow. Therefore, in these districts all plant materials will be allowed in the side or rear yard.)

b. ~~Multifamily~~ High Density Residential and Neighborhood Mixed Use (if the site plan shows multi-family) areas: 15 percent of gross building site.

c. ~~Planned~~ Neighborhood Mixed Use developments: The landscaping required by this article may be modified during the site plan review process for areas zoned ~~planned development~~ Neighborhood Mixed Use district according to specific design constraints of the site; provided, however, that the general spirit and intent of these regulations be observed.

d. Right-of-way: Remaining road rights-of-way may be landscaped for a credit not to exceed 25 percent of the right-of-way area landscaped. Said credit will be applied toward the total required site landscaping.

(3) Plant materials.

a. Plant materials used in conformance with provisions of this article may include, but are not limited to, the following: grass, shrubs, vines, hedges and trees. However, at no time can grass be used solely to meet the landscape requirements. Please see the list of suggested plant materials in section 111-248, and/or brochure available regarding selecting and planting native plants.

b. Trees required:

1. When the landscape area requirement is one to 2,000 square feet, a minimum of one (1) tree for every 400 square feet of landscaped development shall be required.
2. When the landscape area requirement is 2,001 to 10,000 square feet, a minimum of one (1) tree for every 600 square feet of landscape development shall be required, but not less than five (5).

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3. When the landscape area requirement is 10,001 or greater square feet, a minimum of one (1) tree for every 800 square feet of landscape development shall be required, but not less than 17.
 4. All partial tree calculations shall be rounded up to the next highest whole tree.
 5. Trees must be a minimum of two (2) inches caliper.
 6. Trees that are newly planted in excess of the above schedule shall receive credit against the remaining landscape area requirements according to the following schedule, but in no case shall the credit for trees exceed 50 percent of the landscape area requirements.
- c. New or existing trees above the number required shall receive credit as follows:
1. Each tree greater than 12 inches in caliper shall receive a credit of 300 square feet that may be deducted from the total landscaping requirement.
 2. Each tree greater than six (6) inches but less than 12 inches in caliper shall receive a credit of 200 square feet that may be deducted from the total landscaping requirement.
 3. Each tree greater than three (3) inches but less than six (6) inches in caliper shall receive a credit of 100 square feet that may be deducted from the total landscaping requirement.
 4. To receive credit for a tree smaller than three (3) inches in caliper, it must be a minimum of six (6) feet in height when measured immediately after planting and will be given a credit of 75 square feet. It must be a true tree species (not a Bougainvillea or other similar shrub/vine).
 5. In the case of existing palm trees, the required measurement shall be six (6) feet from the ground level to the base of the palm fronds. New palm trees planted to meet tree requirements will require two (2) palms tree for each tree required.
 6. In order to encourage preservation of trees that are already established, an additional credit of 50 square feet shall be given for the preservation of existing trees that are at least six (6) feet in height measured from the ground level. This would be in addition to the credit received for the tree itself.
 7. The non-paved planting area around the base of each tree should be no less than four (4) feet by four (4) feet.
- d. Existing trees to remain on-site shall be protected from compaction and root damage during construction.
- e. Shrubs should be a minimum of one-gallon plantings.

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- f. Ground covers should be planted in a manner as to present a finished appearance and reasonably complete within one (1) year after planting.
- g. Landscaping shall not obstruct the view from any driveway approach, nor shall any landscaping ~~which that creates an visual obstruction of view~~ be located within the radius of any curb return, as indicated on the approved construction plan.
- h. Plant materials located within the site triangle, as illustrated in section 111-581, may only be grass maintained at a height not to exceed 12 inches, or ground cover material maintained at a height not to exceed 24 inches.
- i. Synthetic lawns or plants or other artificial landscape material will not be allowed to substitute for plant requirements of this section.

(4) Watering requirements.

- a. All landscaped areas must be:
 - 1. Watered by an underground sprinkler or drip system installed by a Texas registered irrigation specialist; or
 - 2. Must be located within 100 feet of a water source (i.e., hose bib) if to be manually watered.

Watering facilities are not required for maintenance of undisturbed existing vegetation and trees.

- b. Watering system guidelines.
 - 1. Watering hoses must not cross vehicular or pedestrian travel areas during business hours.
 - 2. All watering devices ~~shall be equipped with have~~ adequate backflow prevention devices.
 - 3. Irrigation systems should be designed to account for high-water-demand areas separate from other reduced-water-demand areas.
 - 4. Care should be taken in the irrigation system design so that, to the greatest extent practical, water being applied to impervious areas is eliminated. Low-trajectory-spray nozzles are encouraged in order to reduce the effect of wind velocity on the spray system. Moisture-sensing devices are encouraged.
 - 5. Whenever possible, automatic irrigation systems should be operated between the hours of midnight and 6:00 a.m. to reduce fungus growth and loss of water due to evaporation.

(5) Public landscaping controls.

- a. All city, county, state, and federal development programs must ~~be in compliance with, comply with~~ the established city landscape ordinance.

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- b. All city development projects shall have written into every contract or subcontract stipulations that the landscaping requirements will be met including protection of trees that are greater than eight (8) inch caliper or 24-inch diameter.

(6) Miscellaneous provisions.

- a. Screening requirements in lieu of dividing fence. All plants used for landscape screens shall be planted in a dense pattern and shall, upon reaching maturity, be not less than six (6) feet in height. Landscape screening shall be installed at the same time as the building construction. Trees or shrubs, if used for such screening, shall be considered as a part of the overall landscaping requirement.
- b. In a residential zone, landscaping materials used as a hedge or screen must be maintained at a height not to exceed 40 inches when located in the front yard forward of the front most element of the house.
- c. A qualified representative of the department of planning and development will inspect all landscaping and no permanent certificate of occupancy and use, or similar authorization, will be issued unless the landscaping meets the requirements provided herein. The chief building official or director of planning and development may allow occupancy provided a contract to complete landscaping is provided and if there ~~are some~~ is a special circumstance as to why the landscaping cannot be provided at the time of final inspection.

(Code 1997, § 159.088; Ordinance 01-50, adopted 6/20/2001; Ordinance 09-08, adopted 4/1/2009; Ordinance 11-63, § I, adopted 12/27/2011)

§ 111-244. Maintenance requirements.

The owner of a site, or his agent or tenant, shall be responsible for the maintenance of all landscaping. Plants shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse, debris and weeds. Any plant used for credit must be replaced within six (6) months or one growing season in case of plant death, freeze or other damage. Plants that have died must be removed within 30 days.

(Code 1997, § 159.089; Ordinance 01-50, adopted 6/20/2001; Ordinance 11-63, § I, adopted 12/27/ 2011)

§ 111-245. Protected trees.

- (a) Any tree measuring 24 inches or more in circumference or with a caliper of eight (8) inches or more will be considered a protected tree and may not be removed unless one of the following mitigation conditions is met:
 - (1) Build around the tree and receive a landscaping credit of 200 square feet, to offset other landscaping requirements for each protected tree left on the property.

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(2) Transplant the protected tree to another part of the property; or, if that is not feasible,

~~(3)~~ Cut down the tree and plant two (2) trees of at least four (4) inches caliper (or four (4) trees of at least two (2) inch caliper) for each tree removed either on the subject property or on public property.

~~(3)~~

~~(4)~~ Such trees shall be identified on the landscape plan submitted for approval under general requirements.

(b) Tree removal permits without building permits.

(1) Any person who wishes to remove any protected trees on a site in a nonresidential zone for which a building permit is not required shall submit a tree-removal permit application to the department of planning and development at least five (5) working days before such removal and shall comply with the mitigation conditions listed in subsection (a)(2) or (a)(3) of this section.

(2) The following items are required to obtain a tree removal permit:

- a. Name, address and phone number of applicant.
- b. Legal owner's name.
- c. Address or legal description of property where trees are to be removed (trees must be tagged with a colored ribbon before on-site inspection).
- d. Written statement indicating the reason for removal of protected trees.
- e. General description of trees to be removed (caliper, condition, type, etc.).
- f. Name and address of contractor who is charged with removing the trees.
- g. Which mitigation method will be chosen and how it will be accomplished.
- h. Any other pertinent information.

(3) Such permit application will be as established in the city fee schedule in chapter 18 to cover the cost of site inspection.

(4) Should such permit be denied, the director of planning and development or their designee shall provide, in writing to the applicant, the reasons for the denial and will recommend alternatives to assist the owner in complying with the article and/or to avoid destruction of the trees. Appeals to this process may be filed in accordance with section 111-442.

(c) Exempt trees. Trees that have been determined to have fallen on their own or those that are determined to pose a safety hazard by the director of planning and development shall be exempt from the provisions above.

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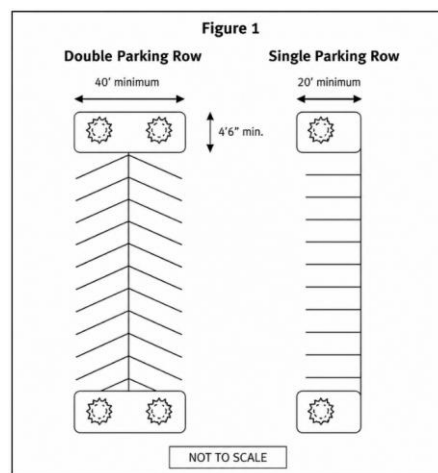
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(Code 1997, § 159.090; Ordinance 01-50, adopted 6/20/2001; Ordinance 11-63, § I, adopted 12/27/ 2011)

§ 111-246. Minimum requirements for interior parking lot landscaping.

Landscaping areas shall be provided for interior parking areas whether they are done as part of a construction project requiring a building permit or as a stand-alone parking lot, ~~so as~~ to improve drainage and provide visual and thermal relief from broad expanses of pavement and to channel and define logical areas for pedestrian and vehicular circulation. For parking lots containing 20 or more parking spaces, landscaping islands shall be required as follows:

- (1) Single row parking areas. A raised island, not less than six (6) inches in height, 4.5 in width and 20 feet in length, shall be located at both ends of every single parking row. The island shall contain no less than one (1) tree and shall not contain any impervious surfaces.
- (2) Double row parking areas. A raised island, not less than six (6) inches in height, 4.5 in width and 40 feet in length, shall be located at the end of each row. The raised island shall contain at least two (2) trees and shall not contain any impervious surfaces.
- (3) Landscaping shall be located such that no parking space is more than 70 feet from a portion of the required landscaped open space.
- (4) All landscaped areas shall be protected from vehicular encroachment by curbs, wheel stops or other similar devices.
- (5) All parking lot landscaping required may be counted toward the overall required landscaping for the site if it is not a stand-alone parking lot, in which case only the requirements listed above shall apply.



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(Code 1997, § 159.091; Ordinance 01-50, adopted 6/20/2001; Ordinance 11-63, § I, adopted 12/27/ 2011)

§ 111-247. Violations and enforcement.

Should any tree or other vegetation required under this article die or be removed, it must be replaced within six (6) months or one (1) growing season days of such removal. All dead vegetation shall be removed within 30 days. It is unlawful for any person to violate this section. (Code 1997, § 159.092; Ordinance 01-50, adopted 6/20/2001; Ordinance 11-63, § I, adopted 12/27/ 2011)

§ 111-248. Recommended plant list.

The following landscape materials are acclimated to the Rio Grande Valley Region of Texas. Due to the variety of planting and soil conditions, the City of Harlingen does not warrant the survival or prosperity of any plant material included in this list. This list may, from time to time, be updated without requirement to go before city commission for approval. ~~A brochure listing native plants may also be available from the department of planning and development upon request.~~

Trees	
Common and Scientific Name	Remarks
Live Oak (quercus virginian)	60 ft., drought and freeze hardy, acorn fruit, plant in big open areas
Wild Olive (cordia boissierei)	20 ft., white showy flowers, drought and freeze hardy to 20F
Texas Persimmon (diospyros texana)	15 ft., attractive bark, fragrant blooms, drought and freeze hardy
Montezuma Baldcypress (taxodium mucronatum)	50 ft., evergreen, bronze foliage in fall, drought and freeze hardy
Yaupon Tree (ilex vomitoria)	25 ft., evergreen, red fruit in winter, drought and freeze hardy
Mexican Ash (fraxinus berladieriana)	30 ft., attractive bark, pest free ash, drought and freeze hardy
Abacua (ehretia anacua)	40 ft., dense foliage, fragrant flowers, drought and freeze hardy
Ebony (pithecellobium flexicule)	50 ft., dark green foliage, evergreen, freeze and drought hardy
Huisache (acacia farnesiana)	30 ft., fragrant orange blossoms, drought, flood and freeze hardy
Retama (parkinsonia aculeata)	32 ft., airy branching, striking yellow flowers
Mesquite (prosopis glandulosa)	30 ft., airy branching, fragrant flowers, drought and freeze hardy
Persimmon (diospyros texana)	Good near power lines, slow growth

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Ficus (ficus retusa nitida)	Freeze damage possible, aggressive roots
Crape Myrtle (lagerstoemia indica)	Many varieties available

Palms	
Common and Scientific Name	Remarks
Sabal Palm (sebal texana)	50 ft., Valley native, drought and freeze hardy at 12F
California Fan Palm (Washingtonia filifera)	30 ft., disease, drought and freeze hardy at 15F
Mexican Fan Palm (Washingtonia robusta)	50 ft., disease, drought, and freeze hardy at 20F
Mediterranean Fan Palm (chamaerope humilis)	15 ft., pest, drought, and freeze hardy at 10F, blue-green leaves
Pindo Palm (butia capitata)	15 ft., drought, flood and freeze hardy at 15F, attractive trunk
Queen Palm (arecastrum romanzoffianum)	Freeze damage possible

Shrubs	
Common and Scientific Name	Remarks
Bougainvillea (bougainvillea spp.)	Many varieties available
Hibiscus (hibiscus rosa-sinesis)	Many varieties available
Lantana (lantana camara)	Many varieties available
Liriope (liriope muscari)	Many varieties available

Ground Cover	
Common and Scientific Name	Remarks
Asiatic Jasmine (trachelospermum asiaticum)	Dense low growing evergreen, drought and shade tolerant, freeze hardy to 20F
Hybrid Daylily (hermerocallis hybrid)	Various colored blooms, medium drought hardy, full sun or partial shade
Society Garlic (tulbaghia violacea)	Pink blooms, grass-like plant, drought tolerant, full sun, ever blooming
Gerber Daisy (gerbera jamesonii)	Bold pink, coral, orange, red, yellow, needs water, needs iron
Mexican Heather (cupphea hyssopifolia)	Continuous pink-purple blooms, fern-type leaves, needs water
Shasta Daisy (chrysanthemum x superbum)	White and yellow blooms, evergreen, needs water
African Iris (morea iriodes)	White blooms, drought hardy
Red Flowering Yucca (hesperaloe parviflora)	Reddish-pink blooms, blue-green ribbon leaves, drought and freeze hardy
Lily Turf (liriope muscari)	Broad leaf, grass-like plant, drought and freeze hardy

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Wedelia	Drought resistant, lush, dark green with yellow flowers
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(Code 1997, § 159.093; Ordinance 01-50, adopted 6/20/2001; Ordinance 11-63, § I, adopted 12/27/ 2011)

§ 111-249. through § 111-274. (Reserved)

ARTICLE X SIGN REGULATIONS

§ 111-275. Sign definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words and phrases not defined in this section but defined elsewhere in this chapter shall be given the meanings set forth in the chapter. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise.

- (a) Animated sign means any sign that uses movement or change of lighting to depict action or create a special effect or scene, or which is designed and constructed to give a message through a sequence of progressive changes in parts by either action or motion, flashing or color changes, requiring electrical or manual energy. This definition includes, but is not limited to, digital signs.
- (b) Balloons means any sign that floats above the ground, motorized or nonmotorized.
- (c) Banner means any sign of lightweight fabric or similar material that is permanently mounted in accordance with section 111-280(e). Flags without a commercial message or intent shall not be considered banners.
- (d) Beacon means any light with one (1) or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one (1) or more beams that rotate or move (contact airport management before placement).
- (e) Bench sign means any sign painted on street furniture, especially bus stop benches.
- (f) Billboard sign means an outdoor board for displaying advertisements.
- (g) Building marker means any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material.
- (h) Canopy sign means any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. (A marquee is not a canopy.)
- (i) Changeable copy sign means a sign, or portion thereof, with characters, letters, numbers, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a changeable copy sign for purposes of this article. A sign on which the only copy that changes is an electronic or mechanical indication of time and/or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this article.

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- (j) **Commercial message** means any sign, wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- (k) **Digital signs**. See animated sign.
- (l) **Feather flags** means an advertising banner that is used by businesses to promote their business brand while the shape of the flag is similar to a bird's feather.
- (m) **Flag** means any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol of a government, political subdivision, or other noncommercial entity.
- (n) **Freestanding sign** means any sign supported by structures or supports that are placed on, or anchored
- (o) in, the ground and that are independent from (i.e., not attached to) any building or other structure.
- (p) **Incidental sign** means a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrance," "loading only," and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.
- (q) **Landmark sign** means any sign of artistic or historic merit, uniqueness, or of extraordinary significance as may be identified by the national, state, or local historic commission, or other official agency or board identified in this article to make such a determination.
- (r) **Lot** means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as required under this article, and having its principal frontage upon a public street (same as premises).
- (s) **Marquee** means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
- (t) **Pennant** means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- (u) **Permanent sign** means a sign that is securely attached to a building or premises according to building codes.
- (v) **Political sign** means any sign which promotes a candidate for any public office or which advocates a position on any social issue as its primary purpose. Political signs are considered a special category of temporary sign.
- (w) **Portable sign** means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to, leaning against, placed inside of, or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
- (x) **Premises** means land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as required under this article, and having its principal frontage upon a public street (same as lot).
- (y) **Projecting sign** means any sign built in such a manner that its leading edge extends more than six (6) inches beyond the surface of such building or wall.
- (z) **Real estate sign** means any sign used for the primary purpose of advertising the availability of real property for sale.

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- (aa) **Residential sign** means any sign located in a district zoned for residential uses that contains no commercial message.
- (bb) **Roof sign** means any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- (cc) **Roof sign, integral**, means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.
- (dd) **Sandwich board sign** means self-supporting A-shaped portable signs with only two (2) visible sides that are situated adjacent to a business, typically on a sidewalk, that contains commercial speech.
- (ee) **Sign** means any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity or product, or to communicate information of any kind to the public and visible from the public right-of-way or another property.
- (ff) **Street frontage** means the distance for which a lot line of a lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.
- (gg) **Suspended sign** means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.
- (hh) **Temporary construction sign** means a sign used to promote the contractor, bank or other business involved in or responsible for construction taking place on the premises.
- (ii) **Temporary sign** means any sign that is used only temporarily in accordance with this section and is not permanently mounted according to building codes.
- (ji) **Wall sign** means any sign attached parallel to, but within 12 inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.
- (kk) **Wind flags** means a piece of cloth or similar, typically rectangular or square, attachable by one (1) edge to a pole used to advertise a business or to convey a message.
- (ll) **Window sign** means any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside or outside of a window or on the window panes or glass and is visible from the exterior of the window.

(Code 1997, § 159.096; Ordinance 02-09, adopted 1/19/2002; Ordinance 03-58, adopted 9/3/2003; Ordinance 08-32, adopted 4/16/2008; Ordinance 09-13, adopted 5/6/2009; Ordinance 2010-20, adopted 6/2/2010; Ordinance 11-63, § I, adopted 12/27/2011; Ordinance 2021-49, § I, adopted 9/22/ 2021; Ordinance 2023-34, § I, adopted 9/6/2023)

§ 111-276. Purpose and applicability.

- (a) This section is to establish a permit system for signs to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this article.

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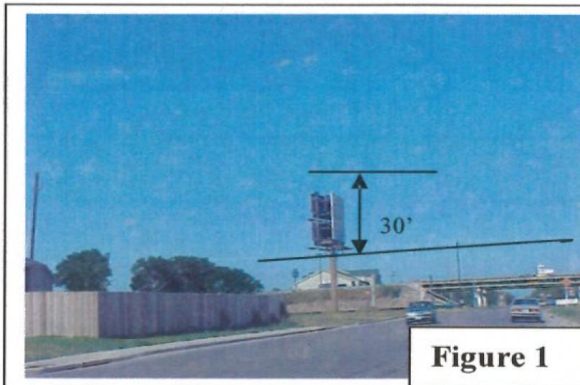
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- (b) The purpose of these sign regulations are to protect, promote, improve and provide for the public health, safety and general welfare of the citizens of the city and:
- (1) To encourage the effective use of signs as a means of communication in the city;
 - (2) To maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth;
 - (3) To improve pedestrian and traffic safety;
 - (4) To minimize the possible adverse effect of signs on nearby public and private property;
 - (5) To enable the fair and consistent enforcement of these sign restrictions;
 - (6) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this article, but without a requirement for permits;
 - (7) To prohibit all signs not expressly permitted by this article; and
 - (8) To provide for the enforcement of this article.

(Code 1997, § 159.085; Ordinance 02-09, adopted 1/19/2002; Ordinance 08-32, adopted 4/16/2008; Ordinance 09-13, adopted 5/6/2009; Ordinance 2010-20, adopted 6/2/2010; Ordinance 11-63, § I, adopted 12/27/2011; Ordinance 2021-49, § I, adopted 9/22/2021)

§ 111-277. Height, area and distance requirements and restrictions.

- (a) **Height.** The height of a freestanding sign shall be computed as the vertical distance from the base of the sign at the roadbed grade (or the surface grade beneath the sign if not flush with the ground) to the top of the highest attached component of the sign.



Along elevated expressway sections, the height shall be measured from the centerline of the main traveled way (see Figure 1).

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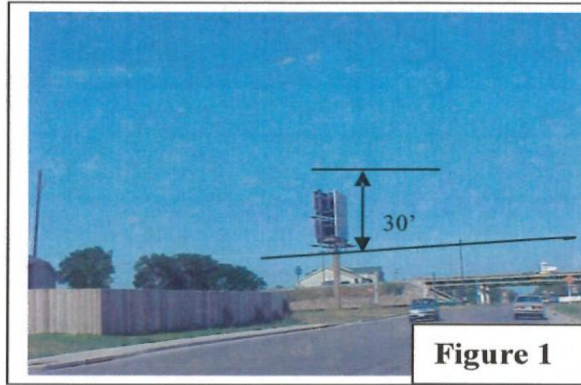


Figure 1

(a)

Zoning District	Maximum Sign Heights	Maximum Total Sign Area*
N- Not Designated	N/A	N/A
AG – Agricultural	10 feet	0.3 square feet
OS Open Space/Recreation	10 feet	0.3 square feet
R-1 Low Density Residential	10 feet	0.3 square feet
R-2 Medium Density Residential	10 feet	0.4 square feet
MF Multifamily	15 feet	0.4 square feet
MH Mobile Home	15 feet	0.4 square feet
MU-N Neighborhood Mixed Use	**	**
MU-C Community Mixed use	25 feet	1.0 square feet
C-1 Neighborhood Commercial	30 feet	0.5 square feet
C-2 General Commercial	50 feet^	3.0 square feet***
E Employment	50 feet^	3.0 square feet***
I Institutional	50 feet^	3.0 square feet***
LI Light Industrial	50 feet^	1.2 square feet****
HI Heavy Industrial	50 feet^	1.2 square feet
Notes:		
For Zoning Designation Explanations, see Section 111-59.		
*Square feet of sign allowed per linear foot of building facing street, access easement or side of building visible from a public street (regardless of height).		
^**For MU-N Neighborhood Mixed Use requirements, see Section 111-332.		
^Within 600 feet of Expressway 77/83, Expressway 83 or Future Interstate 1-69, maximum sign height is 80 feet (Distances are measured along public rights-of-way at 90-degree angles).		
***All properties in the General Commercial District are allowed to have a minimum of 100 square feet of total sign area. Properties adjacent to the Expressway 77/83 or within 600 feet of the Expressway shall be allowed 6 square		

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feet of total sign area per linear foot of building facing a public street, access easement or a side of building visible from a public street.

****Commercial use in the Light Industrial District is allowed 3.0 square feet per linear foot of building facing either a street or access easement.

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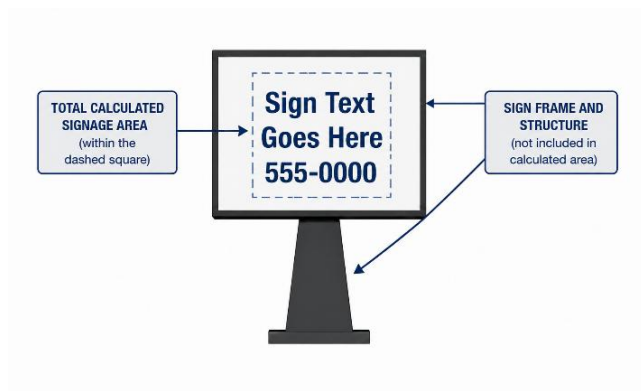
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(b) **Area.**

- (1) **Individual signs.** The area of a sign face shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof, that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. This does not include any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets chapter regulations and is clearly incidental to the display itself (see example below).



- (2) **Multi-faced signs.** When two (2) or more sign faces are placed back to back, so that only one (1) face can be seen by approaching traffic at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one (1) of the faces.
- (3) **Total permitted sign area.** The permitted sum of the area of all individual signs on a premise shall be computed by adding the area of each individual sign. Total sign area permitted is based on linear foot building frontage on either a street, access easement or side of a building visible from a public street as defined in the table in subsection (b)(6) of this section. Lots fronting on either two (2) or more streets, or access easements are allowed the permitted sign area for each street frontage. In addition, multiple lots may pool together their frontages to allow for a larger shared sign at an appropriate location.
- (4) **Painted signs.** Lettering painted on buildings will require a permit and will be counted toward maximum sign area allowed.
- (5) **Placement.** No sign shall obstruct traffic or violate the sight triangle visibility as defined in section 111-581. No sign with a commercial message shall be placed in the right-of-way without first obtaining a license to encroach.

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(6) Existing multi-tenant and/or retail/shopping centers in ~~"GR" Neighborhood and General Commercial (C-1, C-2)~~ zones. Such centers in existence on June 2, 2010, shall follow the total permitted sign area requirements of this section, except as follows:

- a. New tenants in a tenant space with no existing signage (from a previous tenant) shall be allowed a minimum of 32 square feet of signage on said tenant space, regardless of the total permitted sign area calculation for the center;
- b. New tenants in a tenant space with existing defunct signage shall be allowed to replace said defunct sign with no more sign area than that of the defunct sign, unless an increase would be allowed under the total permitted sign area for the center; and/or
- ~~e.~~ New tenants in the anchor tenant space shall be allowed signage under the total permitted sign area calculation for the center, or a no more than a 30 percent increase in sign area on the anchor tenant space from that of the previous anchor tenant, whichever is greater. The latter option (30 percent) shall be allowed on one (1) occasion only (i.e., if the 30 percent option is used by a new anchor tenant, future anchor tenants in the same space may not repeat the option).

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Maximum Total Sign Area

Zoning Designation*	N	AG	OS	R1	R2	M1-R3	M2	MH	PD-MU-N	O-MU-C	NS-C-1	GRC-2	E	O	LI	HI
Signs																
Square-feet-of sign allowed per linear foot of building facing street, access easement or side of building visible from a public street (regardless of height)	N/A	0.3	0.3	0.3	0.4	0.4	0.4	0.4	**	1.0	0.5	3.0***	0.3	0.3	1.2****	1.2

Notes:

* For zoning designation explanations, see section 111-59.

** For ~~planned development~~ Neighborhood Mixed Use requirements, see section 111-332.

*** All properties in the ~~GR~~ General Commercial District are allowed to have a minimum of 100 square feet of total sign area. Properties adjacent to the Expressway 77/83 or within 600 feet of the Expressway shall be allowed 6 square feet of total sign area per linear foot of building facing a public street, access easement or a side of building visible from a public street.

**** Commercial use in a LI District is allowed 3.0 square feet per linear foot of building facing either a street or access easement.

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(7) Sandwich board signs. The maximum area of such sign shall be no more than six (6) square feet per side with the maximum height being 42 inches. Sandwich board signs shall not be illuminated, nor shall they contain moving parts or have balloons, streamers, pennants, or similar adornment attached to them. Sandwich signs are only allowed within the downtown district overlay.

(c) Lighting. Signs may be illuminated subject to the following restrictions:

- (1) No revolving or rotating beam or beacon of light that simulates any emergency light or traffic device shall be permitted as part of any sign. Flashing devices shall not be permitted upon a sign; however, illuminated signs that indicate customary public information, such as time, date, temperature or other similar information, shall be permitted.
- (2) External lighting, such as floodlights, thin line and goose neck reflectors, are permitted, provided the light source is directed on the face of the sign and is effectively shielded so as to prevent beams or rays of light or glare or other unsafe conditions from being directed into any portion of the traveled roadway.
- (3) The illumination of any sign within 200 feet of a residential lot line shall be diffused or indirect in design to prevent direct rays of light from shining into adjoining residential districts or lots.
- (4) Any extension or power cords used shall not be visible or accessible but secured in rigid conduit or otherwise safely secured as required by the currently adopted city electrical code.
- (5) No sign shall be illuminated to such intensity to exceed a maximum of one footcandle measured at the property line.
- (6) The dwell time, defined as the interval of change between each individual static message, shall be at least eight (8) seconds, and a change of message must be accomplished within one (1) second or less. The dwell time shall not include the one (1) second or less required to change a message.
- (7) The sign shall contain a default mechanism that will freeze in one position if a malfunction occurs.
- (8) The sign must contain a control system which automatically adjusts the display's intensity according to natural ambient light conditions. In addition, the sign may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver or results in a nuisance to the driver.
- (9) The sign shall not be configured to resemble a warning or danger signal or cause the driver to mistake the sign for such.
- (10) No animated signs shall be permitted within 75 feet of a residentially-zoned property or property used for residential purposes.

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(11) Any change of pictures or information on the animated sign shall not produce the illusion of moving objects, expanding or contracting shapes, rotation or any similar effect of animation.

(d) Additional sign regulations for billboards.

(1) Signs having a face area of greater than 242 square feet shall not be erected within a radius of 1,500 feet of another similar-sized sign except for the expressway corridors where only the Texas Department of Transportation distance requirements shall apply.

(2) Signs having a face area ranging from 100 to 242 square feet shall not be erected within a radius of 1,500 feet of another similar-sized sign except for the expressway corridors where only the Texas Department of Transportation distance requirements shall apply. Signs within this range of size are allowable only on streets designated by the comprehensive plan thoroughfare map as a major arterial, minor arterial or collector.

(3) Signs having a face area of less than 100 square feet shall not be erected within a radius of 1,500 feet of another similar-sized sign except for the expressway corridors where only the Texas Department of Transportation distance requirements shall apply.

(4) Signs are not in violation of this section because of their proximity to one another if they are located so that their messages are directed toward traffic flowing in different directions, but in no case may be within a radius of 1,500 radial feet of another similar sized sign except for the expressway corridors where only the Texas Department of Transportation distance requirements shall apply.

(5) Bench signs with advertising shall not be used in the calculation of distances between signs due to specific placement requirements usually affixed to bench signs.

(6) No sign shall be located in such a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal or device, or interfere with a driver's view of approaching or intersecting traffic.

(7) No new billboard signs shall be allowed within 500 feet from any church, religious institution, cemetery, preschool, school, college, public park, public playground or designated scenic area.

(8) Signs are not allowed on tracts of land not platted in accordance with chapter 109.

(9) Signs shall only be freestanding and shall not be placed on or through buildings or roofs.

(10) The total sign area of all signs on a developed lot or tract cannot exceed the maximum sign area otherwise ~~allowed on that particular developed~~ permitted for that lot or tract.

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(11) Animated signs shall comply with the following additional regulations:

- a. The dwell time, defined as the interval of change between each individual static message, shall be at least eight (8) seconds, and a change of message must be accomplished within one (1) second or less. The dwell time shall not include the one (1) second or less required to change a message.
- b. The sign shall contain a default mechanism that will freeze the sign in one position if a malfunction occurs.
- c. The sign must contain a control system which automatically adjusts the display's intensity according to natural ambient light conditions. In addition, the sign may not display light of such intensity or brilliance to cause glare or otherwise impair the vision of the driver, or results in a nuisance to the driver.
- d. The sign shall not be configured to resemble a warning or danger signal or cause the driver to mistake the sign for such.
- e. Animated signage shall not exceed a maximum of one (1) footcandle illumination at the property line.
- f. No animated signs shall be permitted within 150 feet of a residentially-zoned property or property used for residential purposes.
- g. Any change of pictures or information on the animated sign shall not produce the illusion of moving objects, expanding or contracting shapes, rotation or any similar effect of animation.

(Code 1997, § 159.097; Ordinance 02-09, adopted 1/19/2002; Ordinance 02-40, adopted 5/1/2002; Ordinance 03-31, adopted 5/21/2003; Ordinance 03-58, adopted 9/3/2003; Ordinance 09-13, adopted 5/6/2009; Ordinance 2010-20, adopted 6/2/2010; Ordinance 11-63, § I, adopted 12/27/2011; Ordinance 12-52, § 1, adopted 8/15/2012; Ordinance 2021-49, § I, adopted 9/22/2021; Ordinance 2024-30 adopted 7/3/2024)

§ 111-278. Permits required.

- (a) The owner, leaseholder or his agent shall secure a sign permit prior to the construction, placement, erection, or modification of a sign in accordance with the requirements of this section.
- (b) All signs require a city sign permit prior to being erected, placed, installed or modified except:
 - (1) Political signs placed on private property (in accordance with state law);
 - (2) Garage sales signs in accordance with section 111-334; and

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- (3) Banners no greater than 80 square feet and mounted in accordance with section 111-280(e);
 - (4) Sandwich board signs within the downtown district overlay so long as said signs do not cause the width of the pedestrian sidewalk to be reduced to less than four (4) feet in width, and the sign is removed at the end of each business day; and
 - (5) Signs that are inside a building, or signs that do not have a primary purpose of being legible from a public street or another property.
- (c) General.
- (1) Repairs or modifications of a legal nonconforming sign cannot increase the amount of nonconformance.
 - (2) A sign shall not be erected without first having obtained a permit from the department of planning and development of the city. A permit application must be submitted to be reviewed and appropriate fees paid prior to review, approval and construction.
 - (3) An engineering seal shall be required on any freestanding sign when the wind load design requires it by the adopted building codes. All signs requiring permits, except for banners, shall be erected only by a sign contractor registered annually with the city as specified in article III, division III, of this chapter. All electrical and structural specifications shall meet the currently adopted codes of the city.
 - (4) Permits issued for all signs shall expire within 90 days of issuance.

(Code 1997, § 159.098; Ordinance 02-09, adopted 1/19/2002; Ordinance 03-39, adopted 6/18/2003; Ordinance 03-58, adopted 9/3/2003; Ordinance 09-13, adopted 5/6/2009; Ordinance 2010-20, adopted 6/2/2010; Ordinance 11-63, § I, adopted 12/27/2011; Ordinance 2021-49, § I, adopted 9/22/2021)

§ 111-279. Design, construction, and maintenance.

- (a) All signs shall comply with applicable provisions of the International Building Code and the National Electrical Code, as currently adopted by the city, at all times.
- (b) All signs requiring a permit must be marked in some permanent manner with the name of the contractor upon completion of the project. This marking must be visible and able to be read from the ground except in cases where design restrictions forbid visible placement. In that case, the contractor must include on the sketch where the permanent marker will be placed (e.g., mall sign markers may be placed on the top of the channel letters).
- (c) Except for banners, flags, temporary signs and window signs conforming in all respects with the requirements of this article, all signs shall be constructed of

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permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

- (d) All signs shall be maintained in good structural condition, in compliance with all building and electrical codes at all times.
- (e) All signs must be maintained current, that is, must be legible and in good repair without broken faces.

(Code 1997, § 159.099; Ordinance 02-09, adopted 1/19/2002; Ordinance 09-13, adopted 5/6/2009; Ordinance 2010-20, adopted 6/2/2010; Ordinance 11-63, § I, adopted 12/27/2011; Ordinance 2021-49, § I, adopted 9/22/2021)

§ 111-280. Special sign categories, permitted, and prohibited signs.

- (a) Political signs. Political signs are a special type of temporary sign. Political signs shall not be placed adjacent to a roadway such that placement would create an obstruction of view for vehicular traffic.
- (b) Painted signs. Signs painted on buildings require a sign permit and will be counted toward overall square footage of signs allowed.

(c) Real estate and model home signs.

(1) Real estate signs will be exempt from permitting if less than 36 square feet. These signs may be in place until such time the real property is no longer offered for sale or lease.

(+)(2) Model Home Signs. A platted lot lawfully used as a model home/model home sales office under §111-1 may display one (1) on-premise monument-style sign identifying the premises, subject to the following:

- a. The sign shall be located entirely on the same platted lot as the dwelling, and set back a minimum of ten (10) feet from the property line. Model home signs shall be located outside of any visibility triangle as prescribed in §111-581.
- b. The sign shall not exceed 32 square feet in area and six (6) feet in height, inclusive of its base.
- c. The sign shall be constructed of durable, weather-resistant materials intended for outdoor use and comply with the construction and maintenance requirements of §111-279.
- d. Illumination, if provided, shall be external, constant, and fully shielded to prevent glare onto adjacent properties or public rights-of-way. It shall be turned off no later than 10:00 p.m., or one hour after the model home closes, whichever occurs first. Internal, digital, LED-lit acrylic, or animated lighting is prohibited.

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e. The sign shall be maintained in good repair and free from deterioration, fading, or structural instability.

f. The sign and all associated foundations or structures shall be removed within ten (10) days after the dwelling ceases to be used as a model home for sales or promotional purposes or is occupied for residential purposes. The site shall be restored to its original condition, including any disturbed landscaping or grading.

g. In no event shall more than one model home sign be displayed within the same subdivision at any time.

h. If a model home remains active for more than twelve (12) months after initial sign permit issuance, the permit shall expire unless the ~~Planning and Development Director~~ planning and development director may approve a time extension not to exceed six (6) months for good cause shown for a maximum of three (3) time extensions. If a time extension is denied by the ~~Planning and Development Director~~ planning and development, the applicant must follow the appeal process in accordance with §111-443 (a)(3).

i. No banners, riders, flags, or temporary signs shall be attached to or displayed in conjunction with a model home sign.

j. Model home signs shall not function as subdivision entrance signs.

k. A sign permit shall be required prior to installation and shall be issued by the Planning and Development Department.

~~(e)~~(d) Construction signs. Construction signs are used to promote the contractor, bank or other business/service involved or responsible for construction taking place on the premises and are allowable without permits until such time as construction is complete and the building is occupied by tenant or user. Such businesses/services include, but are not limited to, landscaping, financing, and subcontractors of all types.

~~(d)~~(c) Banners. Banner signs, as defined in section 111-275, are allowed subject to the following:

- (1) Such signs no greater than 80 square feet do not require city sign permits.
- (2) Such signs no greater than 80 square feet are exempt from the total permitted sign area calculation described in section 111-277(b).
- (3) The total area of all such signs on a building or tenant space mounted to or attached to any portion of the building or building support columns shall not exceed 20 percent of the area of the wall on which said signs are attached.
- (4) All such signs shall be removed and/or replaced no longer than one (1) year from the date of placement or when such signs become tattered, torn, or otherwise contrary to the requirements of section 111-279, whichever occurs first.
- (5) Such signs shall be mounted in one of the following manners:

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- a. Flat against the wall of a building or fence and securely attached to said building or fence at all corners and every three feet along the length and width of said banner; or
 - b. Securely attached at all corners between two (2) permanent mounting structures such as masonry support columns, steel support columns, or an approved permanent frame.
- (6) Banner signs commonly referred to as "wind flags," "feather flags," or similar, are allowed subject to the following but only for properties located outside the downtown district overlay:
- a. Obtaining a sign permit;
 - b. Such signs shall not exceed nine (9) feet in height and shall only be permitted in commercial or industrial zoning categories or an institutional land use and must be located where an established legal business or institution exists.
 - c. One (1) "feather flag" sign shall be permitted per business per property. If the business is located in a commercial plaza one (1) "feather flag" sign shall be permitted per business within the plaza. For commercial establishments exceeding 100 linear feet of building at the longest point, they shall be allowed one (1) "feather flag" sign for every 50 feet of linear feet of building at the longest point. The "feather flag" signs shall be allowed on a temporary basis for a period of one (1) month with a maximum of four (4) permits to be issued per calendar year.
 - d. Such "feather flag" signs shall be removed by the owner(s) during inclement weather.
 - e. The "feather flag" sign owner(s) must sign a waiver of liability form before the permit is issued.
 - f. No portion of the "feather flag" sign shall be within the city right-of-way and shall not be a traffic hazard.
 - g. "Wind flag" signs shall be allowed in private property without having to obtain sign permits as long as connected to a permanent pole structure. Commercial or institutional properties with a building shall have a total allowance of two (2) square feet for "wind flag" signs per total linear foot of building visible from a public street.
 - h. All such "feather flag" and "wind flag" signs shall be removed when such signs become tattered, torn, or otherwise contrary to the requirements of section 111-279.
 - i. The initial processing fee for "feather flag" sign permits shall be \$20.00 (no matter the number of feather flags allowed at any one time). The processing

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fee to renew a permit for another 30 days shall be \$10.00 in person and \$0.00 if done on-line.

~~(e)~~(f) Exempt signs. The following items shall not be considered signs and are exempt from regulations under this article:

- (1) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation or ordinance;
- (2) Any advertising sign inside a building, not attached to a window or door, that is not legible from a distance of more than three (3) feet beyond the lot line of the lot or parcel on which such sign is located;
- (3) Works of art that do not include a commercial message as its primary intent;
- (4) Lights and decorations with no commercial message (such as holiday);
- (5) Traffic control signs on private property, such as stop, yield and similar signs, the face of which contain no commercial message of any sort;
- (6) Informational signs of a public utility regarding its poles, lines, pipes or facilities;
- (7) Signs placed by a governmental agency, public utility company or a contractor doing authorized or permitted work within the right-of-way; and
- (8) Event banners placed across city rights-of-way for special events as determined by the city manager's office or its agent who shall also establish the length of time banners may be erected.

~~(f)~~(g) Prohibited signs. It shall be unlawful for any person, corporation or entity to place or maintain a sign:

- (1) Which is on the city right-of-way unless a "license to encroach" has been issued by the city commission or if it is part of the downtown district overlay and is part of an awning or suspended sign projecting over a public right-of-way provided they maintain a clearance of at least nine (9) feet to the bottom of such projection and do not project more than two-thirds the distance of the existing sidewalk right-of-way;
- (2) Signs which require a sign permit but were erected without such a permit having been issued;
- (3) Which is not legible or in good repair, such as with broken faces, faded or missing letters, etc.;
- (4) That is not securely fixed as per building codes;
- (5) That attempts or appears to attempt to regulate, warn or direct the movement of traffic or which interferes with, imitates, or resembles any official traffic sign, signal or device (except actual traffic control devices installed by the appropriate authority);

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- (6) That is erected or maintained upon trees, utility poles, or painted or drawn upon rocks or other natural features;
- (7) That is nonconforming and damaged or destroyed to an extent of more than 75 percent of the current fair market value as determined by the ~~chief building official~~ **chief building official** and approved by the construction board of adjustments and appeals using the procedures outlined in the International Building Code as adopted and amended by the city;
- (8) That prevents or obstructs or inhibits free ingress or egress from any doors, windows, or fire escapes or that are attached to a standpipe or fire escape; and
- (9) Any signs not expressly permitted under this article or exempt from regulation hereunder in accordance with the previous section are prohibited in the city. Such signs include, but are not limited to:
 - a. Beacons (except as temporary signs not interfering with traffic or aircraft safety);
 - b. Any vehicle which carries, conveys, pulls, or transports any sign for the primary purpose of advertising;
 - c. Strings of lights not permanently mounted to a rigid background, except those exempt under previous sections. Signs attached to utility poles (except as informational to the operation or identification of the utility function); and
 - d. Inflatable signs (except on a temporary basis for no more than 30 consecutive days each occurrence, no more than four occurrences per calendar year).

~~(e)~~(h) Removal of signs in violation of the ordinance.

- (1) All reasonable efforts will be made to notify a property owner of a sign in violation of this article for their voluntary removal in a timely fashion.
- (2) If a property owner cannot be located or refuses to remove a sign in violation of this article, with approval from the construction board of adjustments and appeals the city may remove such sign and bill the property owner for reasonable recovery of time and costs associated with sign removal and disposal.

(Code 1997, § 159.0991; Ordinance 02-09, adopted 1/19/2002; Ordinance 02-40, adopted 5/1/2002; Ordinance 03-31, adopted 5/21/2003; Ordinance 03-39, adopted 6/18/2003; Ordinance 03-58, adopted 9/3/2003; Ordinance 08-32, adopted 4/16/2008; Ordinance 09-13, adopted 5/6/2009; Ordinance 2010-20, adopted 6/2/2010; Ordinance 11-63, § I, adopted 12/27/2011; Ordinance 2021-49, § I, adopted 9/22/2021; Ordinance 2023-34, § I, adopted 9/6/2023; Ordinance 2024-03 adopted 2/7/2024)

§ 111-281. Nonconforming signs.

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(a) Signs legally in existence before this ordinance was enacted, amended or otherwise made applicable to such signs, but not in compliance with the provisions of this section shall be considered legal nonconforming signs and will not be required to be modified or otherwise come into compliance with regulations adopted here unless such legal nonconforming sign is damaged or destroyed to an extent more than 75 percent of the current fair market value as determined by the ~~chief building official~~chief building official.

(b) A change in the information on the face of an existing legal nonconforming sign is allowed. Any nonconforming sign shall either be eliminated or made to conform with the requirements of this section when any proposed change, repair, or maintenance would constitute an expense of more than 75 percent of the current replacement value of the sign. However, maintenance work on an existing legal nonconforming pole shall be permitted with the submission of a report from a licensed structural engineer verifying that such sign is structurally unsafe.

(Code 1997, § 159.0992; Ordinance 02-09, adopted 1/19/2002; Ordinance 09-13, adopted 5/6/2009; Ordinance 2010-20, adopted 6/2/2010; Ordinance 11-63, § I, adopted 12/27/2011; Ordinance 2021-49, § I, adopted 9/22/2021)

§ 111-282. Removal or reduction of nonconforming signs.

(a) A property owner with legal nonconforming signage on the premises may not obtain any new signage permit unless a 15 percent reduction is achieved for the existing legal nonconforming sign.

(b) If the legal nonconforming signage is removed (other than a portable sign), the owner of the premises will be entitled to a 10 percent increase in allowable signage.

(c) No new construction permits greater than 33 percent of the cost of the existing improvements may be issued unless and until all signage on the lot is in conformance with this article.

(Ordinance 11-63, § I, adopted 12/27/2011; Ordinance 2021-49, § I, adopted 9/22/2021)

§ 111-283. Violations.

Any of the following shall be a violation of this Code:

(1) To install, create, erect, or maintain any sign:

a. In a way that is inconsistent with any plan or permit governing such sign or the lot on which the sign is located;

b. Requiring a permit without first obtaining such permit; or

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c. In such a way that is inconsistent with any plan or permit governing such sign or the lot on which sign is located;

(2) To fail to remove any sign that is installed, created, erected, or maintained in violation of this article, or for which the sign permit has lapsed; or

(3) To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this article.
(Code 1997, § 159.0993; Ordinance 02-09, adopted 1/19/2002; Ordinance 09-13, adopted 5/6/2009; Ordinance 2010-20, adopted 6/2/2010; Ordinance 11-63, § I, adopted 12/27/2011)

§ 111-284. Appeals.

(a) Appeals to the conditions of this article may be taken to the zoning board of adjustments. A variance will be considered only if there is a hardship that would result if the article was fully enforced due to some condition or physical characteristic of the lot that makes it impossible to follow the article through no fault of the property owner.

(b) If an appeal is due to a sign permit denial, appeals shall be taken to the construction board of adjustments and appeals.

(c) All appeals of the decision of the construction board of adjustments and appeals must be submitted in writing to the court within 10 days hereafter the filing of the decision.

(Code 1997, § 159.0994; Ordinance 02-09, adopted 1/19/2002; Ordinance 09-13, adopted 5/6/2009; Ordinance 2010-20, adopted 6/2/2010; Ordinance 11-63, § I, adopted 12/27/2011; Ordinance 2021-49, § I, adopted 9/22/2021)

§ 111-285. through § 111-301. (Reserved)

ARTICLE XI ACCESSORY, PORTABLE BUILDINGS, AND STORAGE BUILDING, STORAGE CONTAINERS, DETACHED CARPORTS, DETACHED GARAGES, AND ACCESSORY DWELLING UNIT GE BUILDING REGULATIONS

§ 111-302. Purpose and Applicability. Accessory building placement.

(a) Purpose.

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(1) The purpose of this article is to regulate accessory structures, portable buildings, storage buildings, storage containers, detached private garages, detached residential carports, temporary moving containers, temporary repair or construction containers, swimming pools, poolside accessory structures, and accessory dwelling units in a manner that protects public health, safety, neighborhood character, drainage, visibility, access, fire safety, windstorm safety, and the orderly use of land.

(b) Applicability.

(1) This article applies to all accessory structures, portable buildings, storage buildings, storage containers, detached private garage, detached residential carports, temporary moving containers, temporary repair or construction containers, poolside accessory structures, and accessory dwelling units located within the city, unless expressly exempted or regulated separately by this chapter.

(c) Relationship to other regulations.

(1) Compliance with this article shall not exempt any structure, container, or site feature from compliance with applicable zoning, building code, fire code, floodplain, windstorm, utility, drainage, subdivision, permitting, inspection, and certificate of occupancy requirements.

(d) Building permits and windstorm compliance.

(1) Accessory structures, portable buildings, storage buildings, detached private garages, detached carports, converted containers, accessory dwelling units, and other structures regulated by this article shall comply with applicable building code, anchoring, foundation, permitting, inspection, and windstorm requirements. Where required by the city's adopted building codes, local amendments, applicable state windstorm requirements, or other applicable law, windstorm plans, engineered plans, inspections, or other documentation shall be submitted prior to permit issuance.

(e) No exemption from zoning placement standards.

(1) A structure that does not require a building permit solely because of size shall still comply with all applicable zoning placement standards, including setbacks, lot coverage, easements, drainage, height, and sight visibility requirements.

(f) No residential occupancy unless expressly authorized.

(1) No accessory structure, portable building, storage building, storage container, detached private garage, detached carport, poolside accessory structure, or similar structure shall be used as a dwelling unit, sleeping room, lodging unit, rental unit, guest house, or other habitable residential space unless expressly authorized by this chapter and approved in accordance with all applicable zoning, building, fire, utility, sanitation, windstorm, and certificate of occupancy requirements.

§ 111-303. Definitions.

(a) For purposes of this article, the following definitions shall apply:

(1) Accessory structure means a detached subordinate structure located on the same lot as a principal building or principal use, the use of which is customarily incidental to and supportive of the principal building or principal use. Accessory structures include, but are

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not limited to, detached private garages, detached carports, storage buildings, sheds, pool houses, cabanas, workshops, and similar structures.

- (2) Detached private garage means a detached accessory structure used primarily for the parking or storage of motor vehicles and incidental residential storage.
- (3) Detached carport means a detached accessory structure consisting of a roof supported by posts or columns and designed primarily for the parking or storage of motor vehicles. A detached carport is not enclosed and is not a garage.
- (4) Portable building means a prefabricated, manufactured, modular, movable, or transportable building or structure designed to be moved to a site for temporary or long-term use.
- (5) Storage building means an accessory structure, whether site-built, prefabricated, or moved to the site, used primarily for the storage of personal property, equipment, materials, or goods incidental to the principal use of the lot.
- (6) Storage container means a container, structure, or device used or capable of being used primarily for the storage of goods, materials, equipment, or inventory, including portable on-demand storage units, PODS, shipping containers, intermodal freight containers, cargo containers, freight boxes, mini-storage units, and similar containers, whether leased or owned.
- (7) Temporary moving container means a storage container placed on a residential lot for temporary storage of household goods during moving, relocation, remodeling, disaster recovery, or similar short-term residential activity.
- (8) Temporary repair or construction container means a storage container placed on a residential or nonresidential lot during active construction, repair, remodeling, restoration, remediation, or similar work authorized by a valid building permit.
- (9) Accessory dwelling unit means a subordinate dwelling unit located on the same lot as a principal single-family dwelling and containing permanent provisions for living, sleeping, cooking, and sanitation.
- (10) Poolside accessory structure means a cabana, pool house, shelter, or similar accessory structure located in association with a private swimming pool or spa.
- (11) Ordinary public view means visibility from a public street, public sidewalk, public alley, public park, public right-of-way, or adjacent residential property.
- (12) Substantial concern means a written concern submitted in response to notice under this article that identifies a potential issue related to applicable zoning standards, setbacks, lot coverage, height, drainage, easements, access, fire access, sight visibility, screening, neighborhood compatibility, public safety, or another requirement of this chapter.

§ 111-304. Administrative Site Review and Approval.

- (a) Small accessory structures not exceeding 144 square feet.
 - (1) A portable building, storage building, shed, or similar detached accessory structure not exceeding one hundred forty-four (144) square feet shall not require a building permit or surrounding property owner notice solely because of its size, unless otherwise required by this chapter, the City's adopted building codes, local amendments, windstorm requirements, floodplain regulations, utility connections, or other applicable laws. Such

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structure shall still comply with all applicable zoning requirements, including setbacks, easements, drainage, lot coverage, height, and sight visibility.

- (b) Administrative site review required for structures exceeding 144 square feet.
 - (1) A portable building, storage building, shed, detached private garage, or similar detached accessory structure exceeding one hundred forty-four (144) square feet shall require administrative site review and approval by the planning and development director or designee prior to placement or construction.
- (c) Building permit required over 144 square feet.
 - (1) A portable building, storage building, shed, or similar detached accessory structure exceeding one hundred forty-four (144) square feet shall require a building permit in accordance with the City's adopted building codes and local amendments.
- (d) Detached private garages.
 - (1) Detached private garages shall be subject to building permit review in accordance with the city's adopted building codes and local amendments and shall comply with all applicable zoning, setback, lot coverage, height, drainage, driveway access, windstorm, and utility requirements.
- (e) No special use permit based solely on size.
 - (1) A portable building, storage building, shed, detached private garage, or similar detached accessory structure shall not require a special use permit solely because of size, provided the structure is accessory to a lawful principal use and complies with this chapter.
- (f) Site plan required.
 - (1) An application for administrative site review shall include a site plan, survey, or other scaled drawing showing:
 - i. Property lines and dimensions;
 - ii. Location of the principal building;
 - iii. Location, size, and height of the proposed accessory structure, portable building, storage building, detached garage, carport, or container;
 - iv. Required setbacks;
 - v. Existing and proposed driveways, parking surfaces, sidewalks, and access points;
 - vi. Easement drainage facilities, utility locations, and rights-of-way, if known;
 - vii. Sight visibility areas where applicable; and
 - viii. Any screening required by this article.
- (g) Administrative approval criteria.
 - (1) Administrative site review may be approved only where the planning and development director or designee determines that:
 - i. The structure or container is accessory to a lawfully principal use;
 - ii. The structure or container complies with all applicable placement, setback, lot coverage, height, drainage, easement, and sight visibility requirements.
 - iii. The structure or container does not obstruct sidewalks, public rights-of-way, drainage facilities, utility easements, access easements, fire access, or required sight visibility triangles;
 - iv. The structure or container is not used for habitation, sleeping, independent rental, commercial occupancy, or any unauthorized use;
 - v. Required building permits, windstorm plans, engineered plans, inspections, or approvals are obtained where applicable;
 - vi. Required screening is provided where applicable; and

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- vii. The structure or container will not create a drainage, access, safety, visibility, or nuisance concern.
- (h) Notice required for administrative site review.
- (1) Before approving an administrative site review application for a structure exceeding one hundred forty-four (144) square feet, the planning and development director or designee shall provide written notice to owners of real property located within two hundred (200) feet of the subject property, as shown by the most recently approved municipal tax roll.
- (i) Notice period.
- (1) The notice shall describe the proposed structure and provide surrounding property owners ten (10) calendar days from the date of mailing to submit written comments or concerns to the City.
- (j) Approval when no concerns are received.
- (1) If no written comments or concerns are received within the ten (10) calendar day notice period, the planning and development director or designee may approve the administrative site review if the application complies with this article and all other applicable requirements.
- (k) Review of concerns.
- (1) If written comments or concerns are received within the ten (10) calendar day notice period, the planning and development director or designee shall review the comments to determine whether they raise a substantial issue related to applicable zoning standards, setbacks, lot coverage, height, drainage, easements, access, fire access, sight visibility, screening, neighborhood compatibility, public safety, or other requirements of this chapter.
- (l) Referral to City Commission.
- (1) If the planning and development director or designee determines that written comments or concerns raise a substantial issue under this article or other applicable City regulations, the application shall be referred to the City Commission for consideration.
- (2) The City Commission may approve, approve with conditions, or deny an application referred under this section based on the standards of this article and the purpose and intent of this chapter.
- (m) Items not eligible for administrative approval.
- (1) The following shall not be approved administratively under this section:
- i. Accessory dwelling units;
- ii. Detached residential carports proposed within the required front yard;
- iii. Storage containers proposed to exceed the numerical limits established by this article;
- iv. Structures or containers proposed for habitation, sleeping, residential occupancy, commercial occupancy, independent rental, or any use not authorized by this chapter;
- v. Any structure or container requiring a variance, special exception, special use permit, plat approval, or ordinance amendment;
- vi. Any structure or container that would create or expand a nonconforming use or unlawful structure; or
- vii. Any structure or container that does not comply with applicable zoning, building, fire, drainage, utility, easement, windstorm, or site development requirements.
- (n) Written determination.

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(1) Administrative approval or denial shall be documented in writing, including any applicable conditions of approval.

(o) Appeals.

(1) A decision of the planning and development director or designee under this section may be appealed in accordance with the applicable appeal procedures established by this chapter.

§111-305. General Standards for Accessory Structures.

(a) Permitted accessory structures.

(1) Accessory structures may be permitted on a lot when incidental to a lawful principal use and when located, constructed, and maintained in compliance with this article.

(b) Number of accessory structures.

(1) More than one accessory structure may be permitted on a lot, provided that:

- The total lot coverage does not exceed the maximum allowed in the zoning district;
- Required setbacks are maintained;
- Required drainage, access, easements, and sight visibility are not obstructed;
- The accessory structures remain subordinate to the principal building or principal use; and
- All applicable building code, fire code, windstorm, and permitting requirements are satisfied.

(c) Subordinate character.

(1) An accessory structure shall be subordinate in size, scale, and function to the principal building or principal use on the lot.

(d) Residential districts.

(1) In residential districts, accessory structures shall:

- Be located on the same lot as the principal dwelling. Where two (2) or more contiguous lots are under common ownership and function as one residential site, an accessory structure may be located on a contiguous lot only if the lots are combined by plat, replat, tax parcel combination, or other instrument or approval acceptable to the City for zoning and permitting purposes.
- Be used only for purposes customarily incidental to residential use;
- Not be used for commercial activity, rental occupancy, or independent residential occupancy;
- Not contain separate kitchen facilities or be used as a dwelling unit unless expressly authorized by this chapter; and
- Comply with all applicable setbacks, lot coverage, drainage, easement, building code, and windstorm requirements.

(e) Nonresidential districts.

(1) In nonresidential districts, accessory structures shall be incidental to and used only in conjunction with the principal use of the property.

(f) Minor site features regulated separately.

(1) The following minor site features shall not be regulated as accessory buildings under this article, but shall comply with the placement, safety, drainage, easement, right-of-way, and visibility requirements of this chapter and any other applicable city regulations:

- Mailboxes;
- Yard decorations;

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- iii. Flagpoles;
- iv. Fountains and similar water features;
- v. Swimming pools, spas, and related pool equipment;
- vi. Landscaping features; and
- vii. Similar minor site features or appurtenances as determined by the planning and development director or designee.

- (2) No minor site feature shall be located within a public right-of-way, public sidewalk, drainage easement, utility easement, access easement, fire access area, or required sight visibility triangle unless expressly authorized by the city and, where applicable, the easement holder, responsible agency, or utility provider.
- (3) Minor site features shall not obstruct drainage, access, utilities, emergency access, pedestrian movement, or traffic visibility.
- (4) Mailboxes may be located within the public right-of-way only where authorized by applicable postal service standards and city requirements.
- (5) Flagpoles shall comply with applicable height, location, utility clearance, easement, and safety requirements.
- (6) Fountains, decorative water features, yard decorations, landscaping features, and similar appurtenances shall not be located or maintained in a manner that creates a drainage, traffic visibility, pedestrian safety, nuisance, or property maintenance concern.

§111-306. Placement Standards for Accessory Structures, Detached Private Garages, and Storage Buildings.

(a) Front yard.

- (1) Detached accessory structures, detached private garages, and storage buildings shall not be located in the required front yard, except as expressly allowed for detached residential carports, temporary moving containers attached to active building permit, temporary repair or construction containers attached to active building permit, or other structures specifically authorized by this chapter.

(b) Rear yard location.

- (1) In residential districts, detached accessory structures, and storage buildings shall be located in the rear yard unless otherwise expressly permitted by this chapter.

(c) Side yard setback.

- (1) Detached accessory structures, detached private garages, and storage buildings shall maintain a minimum side yard setback of five (5) feet.

(d) Corner side yard setback.

- (1) Where located on a corner lot, detached accessory structures, detached private garages, and storage buildings shall maintain a minimum setback of ten (10) feet from the side street property line and shall not obstruct any required sight visibility triangle.

(e) Rear yard setback.

- (1) Detached accessory structures and storage buildings shall maintain:
 - i. A minimum rear yard setback of three (3) feet where a rear alley exists; or
 - ii. A minimum rear yard setback of ten (10) feet where no rear alley exists.

(f) Measurement.

- (1) Setbacks shall be measured from the closest part of the structure, including roof overhangs or projections, to the applicable lot line.

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(g) Easements and utilities.

(1) No accessory structure, detached private garage, or storage building shall be located within a utility easement, drainage easement, access easement, or public right-of-way unless written approval is obtained from the applicable easement holder and the city determines that access, drainage, utilities, and public safety will not be impaired.

(h) Drainage.

(1) Accessory structures, detached private garages, and storage buildings shall be placed and maintained so that roof drainage and runoff do not discharge onto adjacent private property in a manner that causes erosion, flooding, or damage.

§111-307. Portable Buildings and Storage Buildings.

(a) Permitted accessory use.

(1) Portable buildings and storage buildings may be permitted as accessory structures when subordinate to a lawful principal use and when located, constructed, and maintained in compliance with this article.

(b) Residential districts.

(1) In residential districts, a portable building or storage building shall not:

- i. Be used as a dwelling unit, sleeping room, guest house, rental unit, or independent residential occupancy;
- ii. Contain separate kitchen facilities, except as allowed for private poolside accessory structures under this article;
- iii. Have separate plumbing or individual utilities.
- iv. Be used for commercial activity;
- v. Be rented or leased separately from the principal dwelling; or
- vi. Be used as a principal building.

(c) Nonresidential districts.

(1) In nonresidential districts, a portable building or storage building may be permitted only when accessory to a lawful principal use, unless the building is approved as a principal building or principal use in accordance with this chapter.

(d) Site plan review.

(1) A portable building or storage building in a nonresidential district may require site plan review where necessary to confirm compliance with setbacks, parking, access, drainage, fire access, screening, utilities, and other applicable site development standards.

(e) Building code and windstorm compliance.

(1) Portable buildings and storage buildings shall comply with all applicable building code and windstorm requirements, including submission of windstorm plans or engineered documentation where required.

§111-308. Detached Private Garages.

(a) Permitted accessory use.

(1) Detached private garages shall be permitted as accessory structures in residential districts when accessory to a lawful principal dwelling.

(b) Use limitations.

(1) A detached private garage shall be used primarily for the parking or storage of motor vehicles and for incidental residential storage. A detached private garage shall not be

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used as a dwelling unit, sleeping room, rental unit, commercial business, or independent occupancy unless expressly permitted and approved under this chapter.

(c) Placement.

(1) Detached private garages shall comply with the placement and setback standards applicable to accessory structures.

(d) Front yard prohibited.

(1) Detached private garages shall not be located within the required front yard unless expressly authorized by this chapter or approved as part of an established platted building line or site design allowed by this chapter.

(e) Lot coverage and height.

(1) Detached private garages shall comply with the maximum lot coverage and building height standards applicable to the zoning district.

(f) Building code and windstorm compliance.

(1) Detached private garages shall comply with all applicable building code, fire code, windstorm, permitting, drainage, driveway access, and utility requirements.

§111-309. Detached Residential Carports.

(a) Applicability.

(1) Detached residential carports shall be permitted as accessory structures in residential districts, subject to the requirements of this section and all applicable zoning, building code, permitting, anchoring, and windstorm requirements.

(b) Administrative approval outside required front yard.

(1) A detached residential carport may be approved administratively when located outside the required front yard and when compliant with all applicable setback, lot coverage, drainage, easement, sight visibility, building code, anchoring, and windstorm requirements.

(c) Preferred location.

(1) Detached residential carports should be located to the side or rear of the principal dwelling where feasible, in order to preserve the residential character of the streetscape and maintain the purpose of the front yard setback.

(d) Front-yard carports prohibited unless approved by special exception.

(1) A detached residential carport shall not be located within the required front yard unless approved as a special exception by the Zoning Board of Adjustment in accordance with this section.

(e) Eligibility for special exception.

(1) A special exception for a detached residential carport within the required front yard may be considered only where the applicant demonstrates that side or rear placement is not feasible due to existing building placement, driveway location, lot configuration, utility constraints, drainage constraints, lack of reasonable side-yard access, or other site-specific conditions.

(f) Setback encroachment authorized.

(1) A special exception approved under this section may authorize encroachment into the required front yard or required side yard setback, but shall not authorize encroachment into a public right-of-way, sidewalk, drainage easement, utility easement, access easement, fire access area, or required sight visibility triangle.

(g) Minimum standards for front-yard carports.

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(1) A detached residential carport approved within the required front yard shall comply with the following:

- i. The carport shall be located over an existing driveway or approved parking surface;
- ii. The carport shall remain open on at least three (3) sides and shall not be enclosed with walls, panels, tarps, fabric, screening, fencing, or similar materials;
- iii. The carport shall not exceed four hundred (400) square feet;
- iv. The carport shall not obstruct a sidewalk, public right-of-way, drainage easement, utility easement, access easement, fire access, or required sight visibility triangle;
- v. The carport shall not create a traffic, drainage, public safety, or neighborhood compatibility concern;
- vi. The carport shall comply with all applicable building code, anchoring, permitting, and windstorm requirements; and
- vii. The carport shall be used only for the parking or storage of operable motor vehicles and shall not be used as a storage building, enclosed room, workshop, habitable space, or commercial storage area.

(h) Special exception findings.

(1) In deciding whether to approve a special exception for a detached residential carport within the required front yard, the Zoning Board of Adjustment shall consider:

- i. Whether the carport is compatible with the character of the surrounding neighborhood;
- ii. Whether the carport will adversely affect adjacent properties;
- iii. Whether the size, height, location, and design of the carport are appropriate for the lot;
- iv. Whether the carport will affect visibility, access, drainage, sidewalks, or public safety;
- v. Whether side or rear placement is feasible;
- vi. Whether the request is consistent with the purpose and intent of this chapter; and
- vii. Whether approval would preserve the general purpose of the front yard setback while addressing site-specific constraints.

(i) No storage or enclosure.

(1) A detached residential carport approved by special exception shall not be enclosed or used for storage of household goods, equipment, junk, debris, materials, or any item other than operable motor vehicles, except for incidental items customarily associated with vehicle parking.

(j) Size and height.

(1) A detached residential carport shall not exceed four hundred (400) square feet in area and shall not exceed the height of the principal dwelling, unless otherwise approved in accordance with this chapter.

(k) Design and maintenance standards.

(1) Detached residential carports shall be maintained in a safe, secure, weather-resistant, and structurally sound condition.

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- (2) Metal carports shall be permitted, provided they are properly anchored and maintained in good condition.
- (3) Temporary fabric, tarp, plastic, canvas, or similar non-durable coverings shall be prohibited, except where expressly allowed as a temporary structure under this chapter.
- (4) A detached residential carport shall not be used as a storage building, enclosed room, workshop, habitable space, or commercial storage area.

(l) Relationship to accessory structure regulations.

- (1) Detached residential carports shall be subject to the accessory structure regulations of this chapter, except where this section provides a more specific standard.

§111-310. Swimming Pools, Spas, and Pool Equipment.

(a) Not regulated as accessory buildings.

- (1) Swimming pools, spas, and related pool equipment shall not be regulated as accessory buildings under this article; however, they shall comply with the placement, safety, drainage, easement, utility, and visibility standards of this section and all applicable building code, electrical code, plumbing code, barrier, floodplain, and safety requirements.

(b) Location.

- (1) Swimming pools and spas shall be located in the rear yard.

(c) Setback.

- (1) Swimming pools and spas shall maintain a minimum setback of five (5) feet from any side or rear property line, measured from the water's edge or pool wall, unless a greater setback is required by the adopted building code, easement, utility provider, floodplain regulation, or approved construction plans.

(d) Prohibited locations.

- (1) No swimming pool, spa, pool deck, pool equipment, or related improvement shall be located within a public right-of-way, public sidewalk, drainage easement, utility easement, access easement, fire access area, or required sight visibility triangle unless expressly authorized by the city and the applicable easement holder or responsible agency.

(e) Pool equipment.

- (1) Pool equipment shall be located outside the required front yard and shall be placed or screened to reduce visibility and noise impacts from adjacent residential properties and public rights-of-way.

(f) Drainage.

- (1) Swimming pools, spas, pool decks, and related improvements shall be designed, constructed, and maintained so that drainage and discharge do not flow onto adjacent private property in a manner that causes erosion, flooding, or damage.

§111-311. Poolside Accessory Structures.

(a) Permitted facilities.

- (1) Cabanas, pool houses, shelters, and similar private poolside accessory structures may contain bathroom facilities, showers, sinks, wet bars, or limited kitchen-type facilities when accessory to a lawful principal residential use and when approved in accordance

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with applicable building, plumbing, electrical, utility, drainage, and permitting requirements.

(b) Placement.

(1) Poolside accessory structures shall comply with the placement and setback standards applicable to accessory structures.

(c) Residential occupancy prohibited.

(1) A cabana, pool house, shelter, or similar private poolside accessory structure shall not be used as a dwelling unit, accessory dwelling unit, guest house, rental unit, sleeping room, lodging unit, or independent residential occupancy unless expressly approved as an accessory dwelling unit in accordance with this chapter.

(d) No implied ADU approval.

(1) The approval of bathroom facilities, showers, sinks, wet bars, or limited kitchen-type facilities in a poolside accessory structure shall not authorize the structure to be used as a residence or accessory dwelling unit.

(e) Certificate of occupancy.

(1) No poolside accessory structure shall be occupied or used for residential purposes unless all applicable zoning approvals, building permits, inspections, utility approvals, and certificate of occupancy requirements have been satisfied.

§ 111-312. Storage Containers.

(a) Purpose.

(1) The purpose of this section is to regulate storage containers in a manner that recognizes limited business, construction, moving, and operational storage needs while protecting public safety, site circulation, neighborhood character, streetscape appearance, drainage, fire access, and adjacent properties.

(b) Residential districts.

(1) Storage containers shall be prohibited in residential districts, except:
i. Temporary moving containers allowed under subsection (h); or
ii. Temporary repair or construction containers allowed under subsection (i).

(c) Commercial, employment, and industrial districts.

(1) Storage containers may be permitted as accessory storage structures in commercial, employment, and industrial districts, subject to the standards of this section.

(d) Use limitations.

(1) Storage containers shall not be permitted as a principal use or principal building and shall not be used for retail sales, customer service, business occupancy, habitation, signage, advertising, display, or any use other than accessory storage.

(e) Location.

(1) Storage containers shall comply with the following location standards:
i. Storage containers shall be located to the rear of the principal building;
ii. Storage containers shall not be located in a front yard, required street yard, required landscape area, required parking space, drive aisle, fire lane, loading maneuvering area, drainage easement, utility easement, public right-of-way, or required sight visibility triangle;
iii. Storage containers shall not be visible from any public street, public sidewalk, public alley, public park, or public right-of-way; and

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- iv. Where a site has no principal building or where rear placement is not physically possible due to site configuration, placement may be approved only through a site plan approved by the planning and development director or designee, provided the container is fully screened from ordinary public view and does not adversely affect access, drainage, fire protection, circulation, or adjacent properties.

(f) Screening.

- (1) Storage containers shall be screened from ordinary public view by one or more of the following:

- i. A solid fence or wall not less than six (6) feet in height;
- ii. Dense evergreen landscaping capable of providing continuous screening at maturity;
- iii. Placement behind a principal building or other permanent structure; or
- iv. Another screening method approved by the planning and development director or designee that provides equivalent screening.

- (2) Screening shall be installed prior to placement of the container or at the time of container placement.

- (3) Required screening shall be continuously maintained in good condition.

- (4) Landscape screening shall be replaced if dead, missing, or no longer providing effective screening.

(g) Number of containers.

- (1) The number of storage containers shall be limited as follows:

<u>District</u>	<u>Maximum Number of Storage Containers</u>
<u>C-1 Neighborhood Commercial</u>	<u>1</u>
<u>C-2 General Commercial</u>	<u>2</u>
<u>E Employment</u>	<u>2</u>
<u>LI Light Industrial</u>	<u>3</u>
<u>HI Heavy Industrial</u>	<u>5</u>

- (2) Additional containers may be approved by special use permit where the applicant demonstrates that the containers are necessary for the operation of the principal use, will be fully screened, and will not create adverse impacts to access, circulation, drainage, fire protection, visibility, or surrounding properties.

(h) Temporary residential moving containers.

- (1) A temporary moving container may be placed on a residential lot for moving, relocation, remodeling, disaster recovery, or similar short-term residential activity, subject to the following:

- i. The container shall not exceed sixteen (16) feet in length, eight (8) feet in width, and eight (8) feet in height;
- ii. The container shall be located on a driveway or approved hard surface where feasible;
- iii. The container shall not be located in a public right-of-way without separate approval from the city;

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- iv. The container shall not be located on a sidewalk, in a drainage easement, utility easement, access easement, required sight visibility triangle, or in a manner that blocks emergency access;
 - v. The container shall not create a drainage, traffic, or public safety hazard;
 - vi. The container shall be used only for storage of household goods, furniture, personal property, or materials associated with moving, relocation, remodeling, disaster recovery, or residential repair;
 - vii. The container shall not be used for habitation, sleeping, business activity, sales, commercial storage, signage, or advertising;
 - viii. The container may remain on the lot for not more than thirty (30) consecutive days; and
 - ix. No more than one (1) temporary moving container shall be placed on a residential lot within any twelve-month period unless an extension is approved by the planning and development director or designee for good cause.
- (i) Temporary residential repair or construction containers.
- (1) A temporary storage container, including a POD or similar portable moving or storage container, may be placed on a residential lot during active construction, repair, remodeling, restoration, remediation, or similar work authorized by a valid building permit, subject to the following:
 - (2) The container may be used for the temporary storage of household goods, furniture, appliances, clothing, personal property, and similar belongings of the residents of the dwelling;
 - (3) The container may also be used for tools, equipment, building materials, or supplies directly related to the work authorized by the building permit;
 - (4) The container shall be accessory to and associated with the work authorized by the building permit and shall not be used for unrelated long-term storage or storage for another property, business, or commercial activity;
 - (5) The container may remain on the lot only while the related building permit is valid and work is active. For residential permits, the container may remain for the duration of the permit period, including any approved permit extension, provided the container continues to comply with this section;
 - (6) The container shall be removed no later than ten (10) calendar days after final inspection approval, issuance of a certificate of occupancy where applicable, expiration or revocation of the building permit, abandonment or suspension of work for more than thirty (30) consecutive days, or completion of the repair, remodeling, restoration, remediation, or construction activity for which the container was placed, whichever occurs first;
 - (7) The container shall be located on a driveway or other approved hard surface where feasible;
 - (8) The container shall not obstruct sidewalks, public rights-of-way, fire access, drainage, easements, utilities, required parking, or required sight visibility triangles;
 - (9) The container shall not be used for habitation, sleeping, business operations, retail sales, advertising, commercial storage, or storage unrelated to the permitted residential work; and
 - (10) The container shall be maintained in safe condition and shall not be allowed to become a nuisance, harbor vermin, obstruct visibility, or create unsafe conditions.

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(j) Temporary construction containers in nonresidential districts.

(1) Storage containers may be used during active construction under a valid building permit on nonresidential property, provided that:

- i. The container is used only for storage of tools, equipment, building materials, or supplies directly related to the work authorized by the building permit;**
- ii. The container may remain on the lot only while the building permit is active and work is ongoing;**
- iii. The container shall be removed no later than ten (10) days after final inspection, expiration of the building permit, abandonment or suspension of work, or issuance of a certificate of occupancy, whichever occurs first;**
- iv. The container shall not obstruct sidewalks, rights-of-way, fire access, drainage, easements, utilities, parking, loading, or required sight visibility triangles; and**
- v. The container shall not be used for habitation, sleeping, business operations, retail sales, advertising, or storage unrelated to the permitted construction activity.**

(k) Industrial inventory exception.

(1) Storage containers that are inventory, stock, or equipment of a lawful business located in the LI or HI district shall not be subject to the numerical limits of subsection (g), provided that:

- i. The containers are not used for on-site storage unrelated to the business inventory;**
- ii. The containers are stored in an approved outdoor storage area;**
- iii. The containers are screened where required by this chapter; and**
- iv. The containers do not create a nuisance or safety hazard.**

(l) Maintenance and appearance.

(1) Storage containers shall be maintained in good condition and shall be free of unsafe conditions, graffiti, excessive rust, structural damage, open holes, broken doors, loose panels, sharp edges, or exterior deterioration.

(m) Compliance with site standards.

(1) Storage containers shall comply with all applicable requirements for setbacks, fire access, drainage, utilities, easements, parking, loading, circulation, screening, and site development.

(n) Existing containers.

(1) Storage containers lawfully existing before the effective date of this section that do not conform to this section shall be subject to the nonconforming use and structure provisions of this chapter. Nothing in this section shall authorize a container that was unlawful when placed or prevent the city from enforcing against unsafe, unscreened, improperly located, or unlawful containers.

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§111-313. Container Conversion and Adaptive Reuse.

(a) Storage-only containers.

(1) A storage container approved under §111-312 shall be used only for accessory storage and shall not be used for habitation, sleeping, residential occupancy, office space, retail sales, customer service, food service, assembly, manufacturing, repair, business

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operations, or any other occupied use unless converted and approved as a building in accordance with this section.

(b) Conversion to building or occupied use.

(1) A storage container proposed to be converted, modified, occupied, connected to utilities, placed on a permanent foundation, or used as a building or part of a building shall no longer be regulated solely as a storage container and shall be reviewed as a building or structure subject to all applicable zoning district regulations, permitted use regulations, site plan requirements, building codes, fire codes, accessibility requirements, utility requirements, permitting requirements, inspections, and certificate of occupancy requirements.

(c) Residential use prohibited.

(1) Storage containers, shipping containers, intermodal freight containers, cargo containers, and similar containers shall not be used as a dwelling unit, accessory dwelling unit, guest house, sleeping room, lodging unit, manufactured home, mobile home, recreational vehicle, or other residential occupancy.

(d) Commercial or industrial conversion.

(1) A container proposed for conversion to an office, retail space, kiosk, food service space, workshop, storage building, industrial structure, or other nonresidential occupied use may be allowed only in a zoning district where the proposed use is permitted and only after approval of all required permits and inspections. Approval of a converted container building shall not be construed to permit a use that is not otherwise allowed in the zoning district.

(e) Compliance requirements.

(1) The converted structure shall comply with all applicable requirements for building placement, setbacks, parking, loading, access, fire access, drainage, utilities, screening, landscaping, accessibility, windstorm compliance, and certificates of occupancy.

(f) Structural modification.

(1) Cutting, welding, stacking, joining, adding openings, adding electrical, plumbing, mechanical systems, insulation, foundations, roof systems, exterior cladding, or otherwise modifying a container for occupancy or building use shall require building permit approval and any engineered plans, windstorm plans, or other documentation required by the adopted building code or applicable regulations.

(g) No implied approval.

(1) Approval of a storage container for accessory storage shall not authorize the container to be occupied, converted, connected to utilities, used as a business location, used as a principal building, or used as a dwelling.

(h) Certificate of occupancy required.

(1) No converted container building or container-based structure shall be occupied or used until all required permits and a certificate of occupancy has been issued, where required by this chapter or the adopted building codes.

§111-314. Accessory Dwelling Units.

(a) Purpose.

(1) The purpose of this section is to allow limited accessory dwelling units in the R-1 Low Density Residential District while preserving neighborhood character, maintaining the accessory nature of the use, and ensuring compliance with applicable

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zoning, building, fire, utility, drainage, windstorm, and site development requirements.

(b) Definition.

(1) An accessory dwelling unit (ADU) means a subordinate dwelling unit located on the same lot as a principal single-family dwelling and containing permanent provisions for living, sleeping, cooking, and sanitation.

(c) Where permitted.

(1) Accessory dwelling units may be permitted only in the R-1 Low Density Residential District as an accessory to a lawful principal single-family dwelling.

(d) Approval required.

(1) An accessory dwelling unit shall require approval of a special use permit in accordance with this chapter.

(e) Number allowed.

(1) Not more than one (1) accessory dwelling unit shall be permitted on a lot.

(f) Principal dwelling required.

(1) An accessory dwelling unit shall be located on the same lot as a lawful principal single-family dwelling. An accessory dwelling unit shall not be established on a vacant lot or on a lot without a principal single-family dwelling.

(g) Prohibited locations and developments.

(1) An accessory dwelling unit shall not be permitted:

- i. In any zoning district other than R-1;
- ii. On a lot developed with a duplex, townhouse development, multifamily dwelling, manufactured housing development, or any residential development containing more than one principal dwelling unit;
- iii. In the required front yard; or
- iv. On a lot that does not comply with applicable lot coverage, setback, drainage, utility, and building code requirements.

(h) Maximum size.

(1) An accessory dwelling unit shall not exceed four hundred and fifty (450) square feet of gross floor area. The accessory dwelling unit shall remain clearly subordinate to the principal dwelling in size, scale, and location.

(i) Lot coverage.

(1) Approval of an accessory dwelling unit shall not authorize an increase in the maximum lot coverage permitted by this chapter.

(j) Setbacks and placement.

(1) A detached accessory dwelling unit shall comply with the setback requirements applicable to accessory structures, except that no accessory dwelling unit shall be located in the required front yard.

(k) Height.

(1) A detached accessory dwelling unit shall not exceed the height of the principal dwelling or thirty-five (35) feet, whichever is less.

(l) Design and compatibility standards.

(1) An accessory dwelling unit shall comply with the following design and compatibility standards:

- i. The accessory dwelling unit shall be subordinate to the principal dwelling in size, scale, and location;

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- ii. A detached accessory dwelling unit shall not be located in the required front yard;
- iii. A detached accessory dwelling unit may have a separate entrance. Where feasible, the entrance should be oriented toward the side or rear yard to reduce visual and privacy impacts on adjacent properties;
- iv. Windows, balconies, decks, exterior stairs, and similar features shall be located or screened to minimize direct views into adjoining residential yards and habitable rooms;
- v. Exterior lighting shall be shielded or directed downward so as not to create glare onto adjacent residential properties;
- vi. A safe pedestrian path shall be provided from the public street, driveway, or parking area to the accessory dwelling unit;
- vii. Mechanical equipment, utility equipment, and trash storage associated with the accessory dwelling unit shall be located or screened to reduce visibility from the public right-of-way and adjacent residential properties;
- viii. The accessory dwelling unit shall be designed and located so that roof drainage and site runoff do not discharge onto adjacent private property in a manner that causes erosion, flooding, or damage;
- ix. The accessory dwelling unit shall comply with all applicable building code, fire code, utility, sanitation, foundation, anchoring, and windstorm requirements, including windstorm plans or engineered documentation where required; and
- x. Nothing in this section shall be construed to require or prohibit a specific building product, material, or construction method except as allowed by applicable state law, building code, windstorm requirements, or historic district regulations.

(m) Utilities and metering.

- (1) An accessory dwelling unit shall be served by approved water, wastewater, electric, drainage, and solid waste service in accordance with applicable city and utility provider requirements. Separate utility meters shall not be required by this chapter, but may be permitted where approved by the applicable utility provider and where all building, electrical, plumbing, and utility standards are satisfied. Nothing in this section shall prohibit a utility provider from requiring separate metering where required by its applicable rules, tariffs, or service standards.

(n) Driveways and curb cuts.

- (1) Approval of an accessory dwelling unit shall not authorize an additional driveway, curb cut, or separate utility connection unless approved by the applicable city department or utility provider.

(o) Building permits and certificate of occupancy.

- (1) An accessory dwelling unit shall require all applicable building permits, inspections, and a certificate of occupancy before occupancy.

(p) Prohibited ADU forms.

- (1) The following shall not be used as an accessory dwelling unit:
 - i. A storage container, shipping container, intermodal freight container, POD, or similar container;
 - ii. A recreational vehicle, travel trailer, motor home, camper, or park model unit;

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- iii. A portable storage building not constructed or converted in compliance with all applicable residential building codes;
- iv. A garage, shed, cabana, or accessory structure lacking approved permanent provisions for living, sleeping, cooking, and sanitation; or
- v. Any structure that does not comply with applicable zoning, building, fire, utility, sanitation, windstorm, and certificate of occupancy requirements.

(q) Short-term rental.

- (1) An accessory dwelling unit shall not be used as a short-term rental unless short-term rentals are expressly permitted and licensed under applicable city regulations.

(r) Separate sale prohibited.

- (1) An accessory dwelling unit shall not be sold separately from the principal dwelling or subdivided onto a separate lot unless the resulting lot and structures comply with all applicable subdivision and zoning requirements.

(s) Occupancy.

- (1) Occupancy of an accessory dwelling unit shall comply with applicable building, fire, health, property maintenance, and occupancy codes. The city shall not regulate occupancy based on whether occupants are related to the occupants of the principal dwelling, except as allowed by state or federal law.

§111-315. Maintenance and Enforcement.

(a) Maintenance.

- (1) All structures, containers, and site features regulated by this article shall be maintained in a safe, secure, clean, weather-resistant, and structurally sound condition.

(b) Unsafe conditions.

- (1) Structures, containers, or site features that are dilapidated, unstable, open to unauthorized entry, deteriorated, infested, damaged, or otherwise unsafe may be declared a violation of this chapter or other applicable city codes.

(c) Screening maintenance.

- (1) Required screening shall be maintained in good condition. Dead or missing landscape screening shall be replaced.

(d) Removal.

- (1) Any structure, container, or site feature placed, used, or maintained in violation of this article shall be removed or brought into compliance upon notice from the city.

(e) Enforcement.

- (1) Violations of this article may be enforced in accordance with the enforcement provisions of this chapter and any other applicable city code provisions.

§111-316. Administrative Authority.

(a) Director authority.

- (1) The planning and development director or designee may approve administrative determinations, site plan compliance, temporary placement, extensions, and alternative screening methods authorized by this article.

(b) Conditions.

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(1) The Director or designee may impose reasonable conditions necessary to protect public safety, access, drainage, visibility, screening, and compatibility with surrounding properties.

(c) Appeals.

(1) A decision of the planning and development director or designee under this article may be appealed in accordance with the applicable appeal procedures established by this chapter.

- ~~(a) Generally, More than one (1) accessory building will be allowed on a lot provided the impervious lot coverage does not exceed the requirement of the district, and the buildings can be placed within standard yard setbacks. The side yard requirements for accessory buildings will be five (5) feet and said building shall always be located in the area defined as rear yard with no less than three (3) feet rear setback, 10 feet if no rear alley exists.~~
- ~~(b) Location of accessory buildings. A main building for one family, two family or multiple family use with permitted accessory buildings may be located upon a lot or unplatted tract; however, an accessory building may never be used as a main building for residential use.~~
- ~~(1) In a residence or an apartment district, an accessory building is a subordinate building, smaller in both size and scale than the main building, detached from the main building, without separate bath or kitchen facilities, not used for commercial purposes and not rented or leased. Separate bath and kitchen facilities shall be allowed in cabanas, shelters, and other private poolside structures; provided, however, that such structures shall never be used as a residence.~~
- ~~(2) Any structure, item or appurtenance, the use of which is incidental to the main structure, will be required to comply with the same restrictions as those for an accessory building in a residential or apartment district. The exemptions to this requirement will be mailboxes, yard decorations, flagpoles, swimming pools and fountains.~~
- ~~(3) In other districts, an accessory building is a subordinate building, smaller in both size and scale than the main building, the use of which is incidental to and used only in conjunction with the main building.~~
- ~~(c) Area regulations in residential and apartment districts. The measurements for accessory buildings shall be from the closest part of the building to the lot line.~~
- ~~(1) Front yard. Attached accessory buildings shall be from the front property line the same distance required for the main building, for front yard purposes. Detached accessory buildings shall be located in the area defined as the rear yard.~~

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~~(2) Side yard. There shall be a side yard not less than five feet from any side lot line or alley line, except that adjacent to a side street, the side yard shall never be less than 10 feet.~~

~~(3) Rear yard. There shall be a rear yard not less than three (3) feet from any lot line or alley line, except that, if no alley exists, the rear yard shall not be less than 10 feet as measured from the rear lot line. Carports, garages or other detached accessory buildings located within the rear portion of the lot as heretofore described shall not be located closer than three (3) feet to any rear lot line.~~

~~(Code 1997, § 159.110; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 01-16, adopted 2/21/2001)~~

§ 111-303. Portable building placement.

~~(a) Generally. No more than one (1) portable building will be allowed on a lot regardless of zone or size unless a special use permit that will comply with subsection (a)(4) of this section is obtained. This special use permit will be separate from the one required in section 111-62. The side yard requirements for portable buildings will be a minimum of five (5) feet if the use is accessory and shall always be located in the area defined as the rear yard with a three (3) foot minimum rear setback. If the use of the portable building is considered a main use, then the portable building must meet all setback requirements of a main building.~~

~~(1) In a residence or an apartment district, a portable building is a subordinate building, detached from the main building, without separate bath or kitchen facilities, not used for commercial purposes and not rented or leased.~~

~~(2) Any portable building, the use of which is incidental to the main structure, will be required to comply with the same restrictions as those for an accessory building in a residential or apartment district.~~

~~(3) In other districts, a portable building may be a subordinate building, the use of which is incidental to and used only in conjunction with the main building, or used as an office or for commercial use.~~

~~(4) A portable building may never be used as a main building for residential use. Every building shall face or front upon a public street or approved place, other than an alley. The access shall be a minimum width of 30 feet and must be approved by the planning and zoning commission and city commission through a special use permit. Where a lot is used for multifamily, retail, commercial, or industrial purposes, or a combination of the same, more than one (1) main building may be located upon the lot. However, a special use permit is required for each such portable building and for allowance of more than one on a single lot. Such buildings shall conform to all open space, parking and other requirements applicable to the uses and district when all such main buildings face upon a public street or other approved means of access, other than an alley. No parking area, storage area or required open space for one building shall be~~

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~~computed as being the open space, yard or area requirements for any other dwelling or other use. An approved site plan shall be filed with the chief building official to ensure compliance with this article. Any deviation of more than one (1) foot from the said site plan as approved by the planning and zoning commission and city commission and filed with the chief building official is prohibited.~~

~~(5) A portable building larger than 144 square feet in size in a residential zone shall require a special use permit as set forth in section 111-413. A portable building of any size located in any other designated zone shall require a special use permit.~~

~~(b) Area regulations in residential and apartment districts. The measurements for portable buildings shall be from the closest part of the building to the lot line.~~

~~(1) Front yard. Portable buildings shall be from the front property line the same distance required for the main building, for front yard purposes.~~

~~(2) Side yard. There shall be a side yard not less than five (5) feet from any side lot line or alley line, except that, adjacent to a side street, the side yard shall never be less than 10 feet.~~

~~(3) Rear yard. There shall be a rear yard not less than three (3) feet from any lot line or alley line, except that, if no alley exists, the rear yard shall not be less than 10 feet as measured from the rear lot line.~~

~~(Code 1997, § 159.111; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)~~

§ 111-304. Storage building and storage container placement.

~~(a) "Storage container" shall mean a container, structure, or device that is used or capable of being used primarily for the storage of goods and materials, including but not limited to portable on demand storage, PODS, shipping containers, intermodal freight containers, mini storage units, or portable storage buildings built off site and moved to a location for use as storage or commercial use, whether leased or owned.~~

~~(b) Location of storage buildings. A main building for one family, two family or multiple family use with permitted accessory buildings or one (1) storage building may be located upon a lot or unplatted tract; however, a storage building may never be used as a main building for residential use.~~

~~(1) A storage building larger than 144 square feet in size in any zone shall require a special use permit as set forth in section 111-413.~~

~~(2) A storage building for one family, two family or multiple family use with permitted accessory buildings or one (1) portable building may be located upon a lot or unplatted tract; however, a storage building may never be used as a main building for residential use. Every dwelling shall face or front upon a public street or approved place, other than an alley, which means of access shall have a minimum width of 30 feet. Where a lot is used for multifamily, retail, commercial,~~

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~~or industrial purposes, or a combination of same, or for a combination of retail and dwelling purposes, more than one (1) main building may be located upon the lot. Such buildings shall conform to all open space, parking and density requirements applicable to the uses and district and when all such main buildings face upon a public street or other approved means of access, other than an alley. 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. An approved site plan shall be filed with the chief building officialchief building official to ensure compliance with this article. Any deviation of more than one foot from the said site plan as filed with the chief building officialchief building official is prohibited.~~

~~(3) A storage building larger than 144 square feet in size in a residential zone shall require a special use permit as set forth in section 111-413. A storage building of any size located in any other designated zone shall require a special use permit.~~

~~a. In a residence or an apartment district, a storage building is a subordinate building, attached to or detached from the main building, without separate bath or kitchen facilities, not used for commercial purposes and not rented or leased.~~

~~b. Any structure, item or appurtenance, the use of which is incidental to the main structure, will be required to comply with the same restrictions as those for an accessory building in a residential or apartment district.~~

~~c. In other districts, a storage building is a subordinate building, the use of which is incidental to and used only in conjunction with the main building.~~

~~(e) Area regulations in residential and apartment districts. The measurements for storage buildings shall be from the closest part of the building to the lot line.~~

~~(1) Front yard. Storage buildings shall be located in the area defined as the rear yard.~~

~~(2) Side yard. There shall be a side yard not less than five (5) feet from any side lot line or alley line, except that, adjacent to a side street, the side yard shall never be less than 10 feet.~~

~~(3) Rear yard. There shall be a rear yard not less than three (3) feet from any lot line or alley line, except that, if no alley exists, the rear yard shall not be less than 10 feet as measured from the rear lot line.~~

~~(d) No storage container will be allowed on a lot, regardless of zone or size, unless a special use permit issued under this subsection is obtained.~~

~~(1) In districts R-1, R-2, M-1, M-2, RPH, and MH, storage containers are not permitted.~~

~~(2) A storage container may never be used as a main building for residential use. A special use permit is required for each such storage container. A special use permit may not be obtained unless the applicant files a site plan with the chief building~~

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~~official/chief building official demonstrating that the container will be screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery, and that all setback restrictions applicable to storage buildings are observed. A special use permit may not be administratively approved pursuant to section 111-413.~~

~~(3) Special use permits issued under this subsection shall be valid for no more than 90 consecutive days. No more than one (1) special use permit shall be granted per lot in any 12-month period. No more than one (1) storage container may be allowed under a single special use permit.~~

~~(e) No special use permit shall be required for the use of storage containers while operating under a building permit. Any number of storage containers may be maintained while actively constructing the improvement for which the building permit was obtained.~~

~~(f) A storage container no larger than 16 feet by eight (8) feet by eight feet may be allowed on a lot in Districts RPH, R-1, and R-2 for the purpose of moving household items to and from a residence, but such storage containers may not be on the lot for longer than 30 consecutive days within a twelve-month period.~~

~~(g) The requirements of this section applicable to storage containers shall not apply to storage containers which are not in use, where the containers are the inventory of a business, or stock of a business used off-site, and which are located on property zoned as light industrial.~~

~~(h) All existing storage containers in the city not in conformity with the requirements of this section shall immediately be screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery. All existing storage containers in the city not in conformity with the requirements of this section shall conform to all requirements no later than two (2) years after the adoption of the ordinance from which this section derives.~~
(Ordinance 2017-18, § I (Exh. A), adopted 6/7/2017)

§ 111-31705. through § 111-326. (Reserved)

ARTICLE XII SPECIAL USE REGULATIONS AND RESTRICTIONS

§ 111-327. Construction offices (temporary).

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- (a) Buildings and building material storage areas to be used for construction purposes may be permitted for a specified period of time in accordance with a permit issued by the ~~chief building official~~chief building official and subject to periodic renewal by the ~~chief building official~~chief building official for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices and buildings shall be removed at the direction of the ~~chief building official~~chief building official or other designated person.
- (b) This chapter shall have no effect on the continuity and enforcement of chapter 107, regulating the subdividing, platting and operation of Class A Mobile Home Developments and Class B Recreational Vehicle Developments in the city.
- (c) The location, whether permanent or temporary, of mobile homes, including temporary storage or parking of mobile homes shall be expressly prohibited in all residential ~~single family, residential~~ multifamily, offices, neighborhood ~~and community mixed use services, general commercial-general retail, employment,~~ light industrial~~y~~, heavy industrial~~y~~, and not designated zoned ~~districts, open space or agricultural districts~~ in the city (unless otherwise allowed under section 111-62 as in the case of mobile homes displayed for sale, lease or rent on mobile homes sales lots and mobile homes as offices for mobile home sales lots, or mobile homes displayed on mobile home manufacturing plants). The location of recreational vehicles shall be permitted in accordance with section 111-62. The use and occupancy of mobile homes shall be expressly prohibited in any N-Not Designated zoned district or any designated district (save and except where a particular use is allowed in a specified district as provided under section 111-62). Any use and occupancy of recreational vehicles is prohibited in all zoned districts except as allowed under section 111-62, or as otherwise expressly allowed under the provisions of this chapter or any other ordinance or city code, mobile homes and/or recreational vehicles used as temporary field offices shall be allowed subject to the requirements pertaining to temporary field offices in general.

(e)

(Code 1997, § 159.120; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§ 111-328. Courtyards.

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 30 feet and no balcony or canopy shall extend into such courts area for a distance greater than five (5) feet.

(Code 1997, § 159.121; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§ 111-329. (Reserved)

§ 111-330. Home occupations.

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(a) A home occupation is an occupation customarily carried on in the home by a member of the occupant's family, without the employment of additional persons, without the use of an on-premises sign to advertise the occupation, without offering any goods for sale on the premises and which does not create obnoxious noise or other obnoxious conditions to abutting residential property, such as odor, increased traffic congestion, light or smoke.

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(b) A home occupation may advertise by phone number, but without the use of the physical address. No hazardous chemicals shall be stored and/or used in the process of the home occupation.

(c) A home occupation must maintain the residential look of the structure.

(d) A home occupation for child or adult day care must meet the above requirements and shall accommodate no more than six (6) children or adults.

(4)

(Code 1997, § 159.123; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

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§ 111-331. Mobile vendors and special events.

All vendors who wish to market their wares in the city for a temporary time must meet the following requirements:

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- (1) No vending will be allowed from a vacant lot.
- (2) All mobile vendors operate with equipment and/or displays that can be entirely removed from the site at the end of each day of operation.
- (3) All mobile vendors shall have permission from the owner of record of the property on which the use is to be located where an already established legally conforming business use exists to allow the vendor to share the parking and restroom facilities provided and maintained by the main business use on the lot.
- (4) All mobile vendors shall fill out completely a mobile vendor's permit and pay a fee as established in section 111-35.
- (5) The department of planning and development (and other departments as necessary) shall inspect the site for compliance to normal regulations such as health requirements for a food vendor, parking requirements for the total site.
- (6) Once issued, the maximum length of time allotted by a mobile vendor's permit shall be no more than one (1) year from the issuance date.
- (7) A mobile vendor's permit may be renewed any number of times by following the specifications set forth in this section as long as the property owner is willing to continue to allow the use of bathroom and parking facilities and both businesses continue to be in compliance with all applicable ordinances.

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- (8) Temporary mobile vendors which market their wares at special events shall be allowed without a mobile vendor's permit for a period not to exceed 10 nonconsecutive days per year. Special events shall include, but not be limited to festivals, charity events, carnivals or other recognized and organized public gatherings. (Examples include Jackson Street Jubilee, Riofest, The Birding Festival, carnivals, circuses, etc.) This section shall not affect the required compliance with other sections of this chapter or other ordinances.

(Code 1997, § 159.124; Ordinance 97-35, adopted 7/2/1997)

§ 111-332. Planned development districts.

(a) The purpose of this section is to recognize Planned Development Districts approved prior to the effective date of Ordinance No. 2026-_____ and to provide procedures for their continued administration, amendment, or rezoning. The City's updated zoning districts, including mixed-use districts, are intended to provide flexible development options under clear base zoning standards without the need to create new Planned Development Districts.

~~(a)~~(b) A planned development (PD) district is a freestanding zoning district that may be created for the purposes of permitting property to be developed with one (1) or more uses not otherwise permitted by right or special use in the zoning district in which the property is located, subject to the ordinance and site plan creating the PD zone.

~~(b)~~(c) The quality level of a planned development shall, in general, be equal to or in excess of that found in projects that would be developed under the base zoning.

~~(c)~~(d) The purpose of the planned development district is to:

- (1) Provide flexibility in planning for development of medium and large-scale developments incorporating a single type of a variety of residential and related uses that are planned and developed as a unit. Such developments may consist of individual lots or may have common building sites;
- (2) Establish a procedure for the development of parcels of land under unified control in order to reduce or eliminate the inflexibility that would otherwise result from strict application of land use standards and procedures designed primarily for individual lots;
- (3) Ensure orderly and thorough planning and review procedures that will result in quality urban design and the creation and improvement of common open space and pedestrian circulation in residential areas;
- (4) Encourage mixed use and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space and amenities; and
- (5) Provide for flexibility in the strict application of certain of the land use regulations, development regulations, and standards found in the base zoning

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provided that alternative standards do not decrease public safety, impair traffic movement, or result in higher maintenance costs.

~~(d)~~(c) A planned development district may not be used to accomplish the following:

- (1) Require construction of public improvements or the dedication or reservation of land that is not of primary benefit to developments within the district or necessary to mitigate an adverse impact attributable to development within the district, unless compensation is provided as required by law;
- (2) Assign responsibility to the city for enforcement of private deed restrictions or covenants;
- (3) Waive or modify ordinances other than this chapter, chapter 109, or the comprehensive plan; or

Seek approval of variances from the terms of this chapter or chapter 109.

~~(4)~~

~~(e)~~—The city commission, after public hearing and proper notice to all parties affected and after recommendation from the city planning and zoning commission, may authorize the creation of planned development districts of a designated size of five acres or more, permitting, but not limited to, the following uses: shopping centers.

~~(f)~~

~~(4)~~—Requirements. In establishing a planned development district in accordance with this section, the planning and zoning commission and city commission shall require a comprehensive site plan of the development. Such site plan shall be approved and filed as part of the ordinance prior to the issuance of any building permit in a planned development

~~(5)~~—district. Such required plan and ordinance shall show building footprints, locations, and proposed heights (nonresidential uses only); maximum buildable area or building setbacks (for residential uses); proposed uses; ingress and egress, public or private streets or drives with adequate right-of-way to conform to the thoroughfare plan of the city; sidewalks; utilities; on-site drainage; parking spaces (nonresidential uses only), yards and open spaces; screening walls or fences; and other development and protective requirements considered necessary to create a reasonable transit onto and protection of the adjacent property.

~~(1)~~

~~(2)~~—Amendment to ordinance. Every planned development district shall be approved under the provisions of this section as applicable to the property involved. In approving the planned development district, the city commission may impose conditions relative to the standard of development and such conditions shall be complied with before a certificate of occupancy is issued for the use of the land or any structure which is part of the planned development district and such conditions shall not be construed as conditions precedent to the approval of the

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zoning amendment, but shall be construed as conditions precedent to the granting of a certificate of occupancy.

- (g) No new Planned Development Districts. After the effective date of Ordinance No. 2026-_____, no new Planned Development District applications shall be accepted, processed, or approved. New development requiring flexibility in land use, site design, dimensional standards, or mixed-use development shall be reviewed under the applicable base zoning district, mixed-use district, special use permit, administrative adjustment, variance, or other procedure authorized by this chapter.
- (h) Existing Planned Development Districts preserved. Any Planned Development District approved before the effective date of Ordinance No. 2026-_____ shall remain valid and shall continue to be governed by the ordinance, site plan, concept plan, development standards, conditions, and approvals applicable to that Planned Development District.
- (i) Approved plans and conditions. The ordinance approving a Planned Development District, including any approved site plan, concept plan, development standards, conditions, exhibits, or related approvals, shall control development within the Planned Development District unless amended or repealed in accordance with this chapter.
- (j) Conflicts. Where an approved Planned Development District ordinance conflicts with the general standards of this chapter, the approved Planned Development District ordinance shall control for that property unless amended, repealed, or superseded by subsequent ordinance. Where the Planned Development District ordinance is silent, the applicable provisions of this chapter and other city regulations shall apply.
- (k) Rezoning from Planned Development District. A property owner may request rezoning from an existing Planned Development District to an applicable zoning district established by this chapter. Such a request shall be processed as a zoning map amendment in accordance with this chapter.
- (l) No automatic conversion. An existing Planned Development District shall not be automatically converted to a mixed-use district, base zoning district, or other zoning district solely by adoption of Ordinance No. 2026-_____. Any change in zoning classification shall require approval by ordinance.
- (m) Vested rights. Nothing in this section shall be construed to impair any vested right, permit, approval, project, or development application protected by state law.
- (n) Private restrictions. Nothing in this section shall require the City to enforce private deed restrictions, covenants, conditions, or private agreements applicable to property within a Planned Development District.

(Code 1997, § 159.125; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 07-27, adopted 4/18/2007; Ordinance 08-32, adopted 4/16/2008)

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§ 111-333. Public improvement district overlay.

- (a) For the purpose of commercial advancement of the downtown district, outdoor display limitations will not be imposed on permitted merchants. This will allow merchants with proper permits as issued by the planning and development department to display regular store merchandise outside the enclosed establishment in the manner authorized by the permit. Such outdoor displays will be limited to the areas of the downtown that have implemented the "public improvement district" designation.
- (b) The process will be overseen by a committee approved by the district's boards. This committee will ensure the highest standards of aesthetic presentation of the downtown area are upheld. They will also ensure, through the permitting process, that the established guidelines and procedures for building occupants/owners to use the right-of-way are maintained in such a manner that will not restrict pedestrian movement.
- (c) Violation of any permit stipulations will be considered a zoning violation and may be enforced with the same penalties and provisions stipulated in this chapter for other such offenses.

(Code 1997, § 159.126; Ordinance 01-28, adopted 3/21/2001)

§ 111-334. Garage/occasional sales regulations.

- (a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
Garage/occasional sale means and includes the offering for sale of personal and/or household property belonging to or in the possession of the person conducting the sale. Said sales shall include "yard sale," "patio sale," "estate sale," "rummage sale" or other similar casual sale of tangible personal and/or household property, which is advertised by any means whereby the public at large is or can be made aware of such sale.
Person means individuals, partnerships, voluntary associations and corporations.
Resident means a person who has a residence within the city limits of Harlingen, Texas.
- (b) Regulations.
 - (1) Garage/occasional sales are authorized only in compliance with this section.
 - (2) No more than four (4) garage/occasional sales shall be conducted at the same address in any calendar year, and no resident shall conduct more than four (4) garage/occasional sales within a calendar year.
 - (3) No garage/occasional sale shall exceed four (4) consecutive calendar days in duration, and at least five (5) business days shall elapse between consecutive garage/occasional sales.
 - (4) The following persons or sales shall be exempt from the provisions of this section:

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- a. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
 - b. Persons acting in accordance with their powers and duties as public officials.
 - c. Persons selling or advertising for sale items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five (5) in number.
 - d. Nonprofit and/or charitable organizations.
- (c) Signage.
- (1) All signs used to advertise the garage/occasional sale must comply with section 38-193.
 - (2) All signs used to advertise the garage/occasional sale must not be placed more than three (3) days prior to the sale and must be removed within 12 hours of completion of the sale.

(Code 1997, § 159.127; Ordinance 01-66, adopted 7/18/2001)

§ 111-335. Food truck parks.

- (a) Definitions.
- Commissary or central preparation facility means a fixed food establishment or facility used by a mobile food vendor for food storage, preparation, servicing, cleaning, portable water supply, wastewater disposal, or other support functions where required by state law.
- Concert means a musical performance given in public, typically by several performers or of several separate compositions.
- Concession trailer means a non-self-propelled, readily movable food vending vehicle or trailer used to sell food or beverages to the public.
- Food truck park means any parcel, tract, or site where two (2) or more mobile food vendors, food vending vehicles, mobile food trucks, concession trailers, or similar mobile food service units regularly congregate or are arranged for the sale of food or beverages to the public.
- Mobile food truck means a motorized, self-propelled, self-contained food service used to sell food or beverages to the public.
- Mobile food vendor means a person or entity operating a food vending vehicle or mobile food service operations subject to applicable state law.
- Texas food establishment rules mean the food establishment regulations adopted by the State of Texas, including 25 Texas Administrative Code chapter 228, as amended, and any successor regulations.
- (b) Zoning and location.

- (1) A food truck park shall be permitted only upon approval of a special use permit in accordance with this chapter.

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(2) A food truck park may be allowed by special use permit only as designated in ~~section 111-62 and section 111-413~~ in the following zoning districts:

(i) MU-C, Community Mixed Use;

(ii) C-2, General Commercial;

(iii) E - Employment;

(iv) LI – Light Industrial

(+)

(3) The food truck park shall be located on a properly ~~subdivided-platted~~ lot, or on a tract ~~or parcel of land that is legally exempt from platting requirements. qualifies for exemption to city subdivision requirements.~~

(4) Approval of a food truck park shall not exempt the property owner, operator, mobile food vendor, or food vending vehicle from compliance with applicable food safety, fire, building, health, utility, drainage, parking, and business regulations.

(c) Site plan required. An application for a food truck park shall include a site plan showing, at a minimum:

(1) Property lines and lot dimensions;

(2) Location of all proposed mobile food vendor spaces;

(3) Location of all buildings, structures, shade structures, seating areas, restrooms, trash enclosures, grease disposal areas, utility connections, and customer areas;

(4) Ingress and egress points;

(5) Internal circulation;

(6) Fire lanes and emergency access;

(7) Required parking and loading areas;

(8) Pedestrian circulation;

(9) Lighting;

(10) Screening or buffering, where required;

(11) Waste receptacles and solid waste collection areas;

(12) Location of any proposed generator areas or temporary electrical connections; and,

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~~(2)(13)~~ Any other information required by the planning and development director, fire marshal, health department director, city engineer, or other reviewing department to determine compliance with applicable city regulations.

~~(b)(d)~~ Food truck parks shall be subject to the following regulations: General site standards. A food truck park shall comply with the following site standards:

(1) Food vending vehicles shall be located on an all-weather surface, including concrete, asphalt, or another approved hard surface.

(2) Customer seating areas, pedestrian paths, and outdoor dining areas shall be located on an all-weather surface or other approved surface that provides safe pedestrian access and minimizes dust, mud, ponding, and drainage impacts.

(3) A minimum clearance of ten (10) feet shall be maintained between food vending vehicles, concession trailers, structures, tents, canopies, or similar units unless a greater distance is required by the Fire Marshal or applicable IFC requirements.

~~(1)~~ Mobile food truck or concession trailer vendors must operate from an approved commissary or central preparation facility in good standing and as defined in and required by the Texas Food Establishment Rules. An existing food establishment may serve as a commissary if said food establishment is in compliance with city and state rules and regulations. All commissaries shall have approved potable water hookups, approved wastewater drainage facilities, approved grease interceptor hookup(s), and any other accommodations required to ensure compliance with all regulatory codes, including but not limited to the local health authority. The commissary shall comply with all food establishment rules and hold all current licenses and permits as required by the same. Valid copies of the commissary's current licenses and permits used under the food establishment rules and most recent health inspection report must be kept on file with the city. Mobile food vendors shall provide documentation of each visit to or service by the commissary and shall have that documentation immediately available for inspection by the city.

~~(2)~~ All mobile food truck or concession trailer workers preparing or handling food and beverage for sale to the public must have a valid food handler's training certificate as required by state law.

~~(3)(4)~~ A mobile food truck park shall or concession trailer shall not have a drive through drive-through lane unless expressly approved as part of the special use permit and site plan. h.

~~(4)~~ There shall be a minimum of 10 linear feet of clearance between all individual mobile food trucks or concession trailers. A site plan showing the layout of the food truck park and the placement of the units must be submitted.

~~(5)~~ Mobile food truck or concession trailers are prohibited from using mechanical loud speakers or sound amplifiers for advertising.

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- (5) Restroom requirements shall be based on the proposed maximum occupancy for the property as submitted by the applicant in his/her special use permit application.
- (6) Food truck parks, food vending vehicles, concession trailers, generators, fuel sources, propane systems, cooking operations, tents, canopies, seating areas, utility connections, and related site improvements shall comply with applicable fire code, electrical code, building code, life-safety, and emergency access requirements.
- (6)(7) The site shall provide adequate pedestrian circulation between parking areas, food vending vehicles, seating areas, and public sidewalks where applicable.
- (7) The food truck park shall be treated initially as a restaurant under the assumption that more than 50 percent of the total sales will be food related. After 12 months of operation, and every 12 months thereafter, the applicant shall provide a complete audit for the previous one (1) month of operation to verify that more than 50 percent of the total sales are food related. The mentioned audit shall be prepared by a licensed auditor. The city reserves the right to request an audit before the 12 month period. If an audit determines that more than 50 percent of the total sales are not food related the applicant shall apply for an amended special use permit during which the city commission shall require licensed security officers and other conditions as desired.
- (8) Video surveillance of the entire food truck park lot shall be provided with a minimum of 30 days' retention video.
- (9) The City Commission may require screening, buffering, fencing, landscaping, or operational conditions as part of the special use permit where necessary to protect adjacent residential uses or other sensitive properties.
- (e) Parking and circulation.
- (1) Off street parking shall be provided in accordance with Article VI of this chapter.
- (2) Parking and internal circulation shall be designed to avoid vehicle stacking into a public street, obstruction of drive aisles, unsafe pedestrian conflicts, or interference with emergency access.
The City Commission may approve shared parking or alternative parking arrangements as part of the special use permit where the applicant demonstrates that adequate parking will be available and that surrounding streets and properties will not be adversely affected.
- (3)
- (8) Adequate lighting to enable clear and unobstructed visibility of food truck park vendors and patrons shall be provided on all entrances and exits of the food truck park area, and along each corner side of the park area including along the sides of any buildings. No light shall be emitted to any surrounding properties.

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- ~~(9) Waste receptacle container(s) shall be provided on site as determined by the public works department based on the lot size and the amount of solid waste generated by the mobile food vendors on site.~~
- ~~(10) Each food truck/trailer shall be located in an all-weather surface (i.e. asphalt or concrete), and in no case shall they be parked on an unimproved surface.~~
- ~~(11) Any dining areas or outside seating within the food truck park shall be paved with an all-weather surface.~~
- ~~(12) Mobile food trucks and concession trailers must meet all applicable laws regarding mobile food vendors as described in the International Building Code (IBC) and International Fire Code (IFC), as adopted and amended by the city.~~
- ~~(13) When required, mobile food trucks and concession trailers must be equipped with commercial mechanical facilities sufficient to provide proper cooking ventilation and fire suppression for eating establishments, as established under the city's adopted building codes. All equipment on the vehicle is to be NSF International (formerly National Sanitation Foundation) approved, American National Standards Institute (ANSI) approved, or of commercial grade.~~
- ~~(14) Electricity shall be from a generator or permanent connection in a food truck park and the mobile food trucks and concession trailers shall utilize electrical cords in conformance with the National Electrical Code as adopted and amended by the city.~~
- ~~(15) Must comply with the city's noise ordinance.~~
- ~~(16) All mobile food truck/trailer vendors shall comply with all other applicable state and local laws applicable to food vendors and handlers.~~

(f) Restrooms.

- (1) Restroom facilities shall be provided in accordance with applicable building, plumbing, health, and state food establishment requirements.
- (2) Where customer seating is provided, restroom access for patrons may be required as a condition of the special use permit based on occupancy, site design, hours of operation, alcohol sales, duration of operation, or other site-specific conditions.
- (3) Restroom facilities shall be shown on the required site plan when provided or required.

(g) Utilities, generators, wastewater, and grease.

- (1) Potable water, wastewater disposal, grease disposal, electrical service, and utility connections shall comply with all applicable city, utility provider, plumbing, electrical, fire, health, and state food establishment requirements.
- (2) Permanent or temporary utility connections shall be installed and used only where approved by the applicable city department or utility provider.
- (3) A food vending vehicle shall remain readily movable as required by state law. No utility connection, platform, structure, skirting, enclosure, foundation, or site improvement shall cause a food vending vehicle to become a permanent building or structure unless approved under all applicable zoning, building, fire, utility, and certificate of occupancy requirements.

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- (4) Grease, wastewater, gray water, and liquid waste shall not be discharged onto the ground, into a storm drain, into a public right-of-way, or into any drainage facility except as expressly authorized by applicable law.
- (5) Generators shall be located, operated, and maintained in compliance with applicable fire, electrical, noise, and safety requirements.

(h) Lighting, noise, events, and alcohol.

- (1) Lighting shall be provided as necessary for safe access and shall be shielded or directed to prevent glare onto adjacent properties, public rights-of-way, and residential areas.
- (2) A food truck park shall comply with the City's noise regulations. Mechanical loudspeakers, sound amplifiers, or similar devices shall not be used for advertising or solicitation.
- (3) Outdoor music, amplified sound, special events, or outdoor entertainment may be allowed only where authorized by the special use permit, temporary event permit, noise regulations, or other applicable city approval.
- (4) The sale, service, or consumption of alcoholic beverages shall comply with applicable Texas Alcoholic Beverage Commission requirements all applicable city regulations. The City Commission may impose conditions related to alcohol sales or consumption where necessary to protect public safety and surrounding properties.

(i) State mobile food vendor compliance.

- (1) Mobile food vendors and food vending vehicles operating within a food truck park shall comply with applicable state laws and regulations, including Texas Health and Safety Code Chapters 437 and 437B and 25 Texas Administrative Code Chapters 226 and 228, as amended.
- (2) Nothing in this section shall be construed to require a local mobile food vendor health permit, commissary, central preparation facility, inspection, equipment standard, or operational requirement that conflicts with state law.
- (3) Nothing in this section shall prohibit the City from enforcing non-conflicting zoning, land use, site plan, fire code, electrical, utility, grease disposal, wastewater, drainage, parking, noise, lighting, solid waste, traffic, public safety, or nuisance regulations.
- (4) Food vending vehicles shall remain readily movable and shall not be permanently affixed to the site unless approved as a permanent building or structure in accordance with all applicable zoning, building, fire, utility, and certificate of occupancy requirements.

(j) Existing food truck parks.

- (1) A food truck park lawfully operating before the effective date of this section may continue only to the extent it was lawfully established and remains in compliance with any applicable approval, permit, site plan, or nonconforming provisions of this chapter. Nothing in this section shall authorize an unlawful use or exempt an existing food truck park from applicable fire, health, safety, nuisance, or state law requirements.

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(Ordinance 2021-07, § I, adopted 2/17/2021)

§111-336. Smoke shops and vape shops.

(a) Applicability.

(1) A smoke shop or vape shop shall require approval of a special use permit where allowed by §111-62.

(b) Separation from sensitive uses.

(1) A smoke shop or vape shop shall not be located within one thousand (1,000) feet of a public or private school, licensed child-care facility, public park, playground, library, or youth-oriented facility.

(c) Separation from similar uses.

(1) A smoke shop or vape shop shall not be located within one thousand (1,000) feet of another smoke shop or vape shop.

(d) Measurement.

(1) Required separation distances shall be measured in a straight line from property line to property line.

(e) Outdoor display prohibited.

(1) No outdoor display of tobacco products, e-cigarettes, vaping products, nicotine products, smoking accessories, or similar products shall be permitted.

(f) Drive-through prohibited.

(1) Drive-through service shall be prohibited.

(g) Compliance with law.

(1) The use shall comply with all applicable federal, state, and local laws related to the sale, display, advertising, distribution, and permitting of cigarettes, cigars, tobacco products, e-cigarettes, e-cigarette products, vaping products, nicotine products, and related items. Nothing in this section shall be construed to authorize the sale, marketing, advertising, display, or distribution of any product prohibited by state or federal law.

(h) SUP conditions.

(1) The City Commission may impose conditions related to hours of operation, signage, lighting, security, parking, access, nuisance prevention, and compatibility with surrounding properties.

§ 111-337. through § 111-356. (Reserved)

ARTICLE XIII NONCONFORMING USES AND STRUCTURES

§-111-357. ~~Criteria for nonconforming status.~~ Purpose and intent.

(a) The purpose of this article is to regulate lawful uses, structures, lots, and site conditions that were legally established but do not conform to the current requirements of this chapter.

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- (b) It is the intent of this article to allow lawful nonconformities to continue, subject to reasonable limitations, while preventing the expansion, enlargement, reestablishment, or intensification of nonconformities except as expressly authorized by this chapter.
- (c) Nothing in this article shall be construed to authorize a use, structure, lot, or site condition that was unlawful when established.
- (d) Nothing in this article shall be construed to require the termination of a lawful nonconforming land use except in accordance with applicable state law, including Texas Local Government Code § 211.019.

§ 111-358. Definitions.

- (a) For purposes of this article, the following terms shall have the meanings provided below:
 - (1) Nonconforming use means a use of land or structure that was lawfully established before the effective date of the zoning regulation, zoning amendment, annexation, or zoning district boundary change that made the use nonconforming, but that no longer conforms to the permitted use regulations of the zoning district in which it is located.
 - (2) Nonconforming structure means a structure that was lawfully constructed or placed before the effective date of the zoning regulation, zoning amendment, annexation, or zoning district boundary change that made the structure nonconforming, but that no longer conforms to current dimensional, setback, height, lot coverage, parking, site design, or other development standards.
 - (3) Nonconforming lot means a lot that was lawfully created before the effective date of the regulation that made the lot nonconforming, but that does not comply with current minimum lot area, lot width, lot depth, frontage, or other lot dimensional standards.
 - (4) Nonconforming site condition means an existing site condition, including but not limited to parking, landscaping, screening, access, loading, drainage, lighting, or similar site improvement, that was lawful when established but does not comply with current requirements of this chapter.
 - (5) Abandonment means the discontinuance of a nonconforming use together with an intent not to resume the use, as evidenced by acts or omissions related to the property.

§111-359. Establishment of nonconforming status.

- (a) A nonconforming status shall exist only where the use, structure, lot, or site condition was lawfully established and became nonconforming as a result of one or more of the following:
 - (1) The use or structure was in existence and lawfully operating prior to November 20, 1974, and has continued since that date without abandonment or loss of nonconforming status;
 - (2) The use, structure, lot, or site condition was lawfully established under the zoning regulations in effect at the time and became nonconforming as a result of the adoption of this chapter or any prior zoning ordinance;
 - (3) The use, structure, lot, or site condition was lawfully established under the zoning regulations in effect at the time and became nonconforming as a result of an amendment to this chapter;
 - (4) The use, structure, lot, or site condition was lawfully established under the zoning regulations in effect at the time and became nonconforming as a result of a rezoning or zoning district boundary change;

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- (5) The use, structure, lot, or site condition was in existence and lawfully operating at the time of annexation into the city and has continued since annexation without abandonment or loss of nonconforming status; or
- (6) The use, structure, lot, or site condition became nonconforming as a result of another change in applicable zoning or development regulations.
- (b) A person claiming nonconforming status shall have the burden of providing documentation sufficient to demonstrate that the use, structure, lot, or site condition was lawfully established and has not lost its nonconforming status under this article.
- (c) Evidence of lawful nonconforming status may include, but is not limited to:
- (1) Building permits;
 - (2) Certificates of occupancy;
 - (3) Utility records;
 - (4) Tax records;
 - (5) Aerial photographs;
 - (6) Business licenses or permits;
 - (7) Approved site plans or plats;
 - (8) Prior zoning approvals; or
 - (9) Other reliable documentation accepted by the Planning and development director or designee.
- (d) A use, structure, lot, or site condition that was unlawful when established shall not become lawful by the passage of time, change in ownership, issuance of utilities, payment of taxes, or failure of the city to take earlier enforcement action.

§111-360. Continuation of lawful nonconformities.

- (a) A lawful nonconforming use, structure, lot, or site condition may continue, subject to the requirements of this article.
- (b) Ordinary repair and maintenance of a lawful nonconforming structure shall be permitted, provided such repair or maintenance does not enlarge, expand, intensify, or increase the degree of nonconformity.
- (c) Nothing in this article shall prohibit work required to correct an unsafe condition, comply with building, fire, health, floodplain, windstorm, or property maintenance codes, or protect public health and safety.
- (d) Change in ownership, tenancy, or property management shall not by itself terminate lawful nonconforming status, provided the nonconforming use, structure, lot, or site condition is not discontinued, abandoned, expanded, enlarged, intensified, or changed in violation of this article.

§111-361. Expansion, enlargement, or intensification.

- (a) A nonconforming use shall not be enlarged, expanded, extended, or intensified unless expressly authorized by this chapter.
- (b) Prohibited expansion, enlargement, or intensification includes, but is not limited to:
- (1) Increasing the land area occupied by the nonconforming use;
 - (2) Expanding the floor area devoted to the nonconforming use;
 - (3) Adding additional dwelling units where the number of dwelling units is nonconforming;
 - (4) Increasing outdoor storage, outdoor display, or operational area;

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- (5) Increasing vehicle, equipment, or material storage beyond the area lawfully established;
- (6) Converting a conforming portion of the property to a nonconforming use; or
- (7) Increasing impacts on adjacent properties, including traffic, noise, drainage, lighting, dust, vibration, odor, or similar impacts.

- (c) A nonconforming structure shall not be enlarged, expanded, reconstructed, relocated, or altered in a manner that increases the degree of structural nonconformity unless authorized by variance, special exception, special use permit, or other approval expressly provided by this chapter.
- (d) An alteration that reduces or eliminates a nonconformity may be approved administratively, provided all other applicable requirements are met.

§111-362. Change from one nonconforming use to another.

- (a) A lawful nonconforming use shall not be changed to another nonconforming use unless approved in accordance with this section.
- (b) The Planning and development director or designee may approve a change from one lawful nonconforming use to another use only where the Director determines that:
 - i. The proposed use is permitted in the zoning district; or
 - ii. The proposed use is less intensive than the existing lawful nonconforming use and does not create greater impacts related to traffic, parking, noise, lighting, drainage, outdoor activity, hours of operation, or compatibility with surrounding properties.
- (c) If a lawful nonconforming use is changed to a conforming use, the nonconforming use shall not thereafter be reestablished.
- (d) If a lawful nonconforming use is changed to a less intensive nonconforming use, the prior more intensive nonconforming use shall be deemed abandoned and shall not thereafter be reestablished.
- (e) A change from one nonconforming use to another that is not eligible for administrative approval shall require approval by the Zoning Board of Adjustment as a special exception, where authorized by this chapter.

§111-363. Discontinuance or abandonment of nonconforming use.

- (a) If a lawful nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, the nonconforming use shall be presumed abandoned. The presumption may be rebutted by documentation showing a continuing intent to resume the lawful nonconforming use.
- (b) Evidence of intent to continue the nonconforming use may include active marketing, building permits, repair activity, utility service, business records, lease records, insurance claims, casualty recovery, or other documentation accepted by the Planning and development director or designee.
- (c) Discontinuance caused by casualty damage, natural disaster, condemnation, governmental action, litigation, probate, insurance claim delays, or other circumstances beyond the property owner's control may be considered in determining whether a nonconforming use has been abandoned.
- (d) Where a nonconforming use is maintained as part of a larger nonconforming use or operation, temporary vacancy of an individual unit, tenant space, dwelling unit, or portion of

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the property shall not by itself terminate the nonconforming status of the entire use, provided the overall nonconforming use remains active and has not been abandoned.

- (e) Once a nonconforming use is abandoned, the property may thereafter be used only in conformity with the regulations applicable to the zoning district in which it is located.

§111-364. Damage or destruction of nonconforming structures.

- (a) If a lawful nonconforming structure is damaged or destroyed by fire, flood, windstorm, natural disaster, accident, or other casualty, the structure may be repaired or reconstructed, subject to this section.
- (b) If the cost of repair or reconstruction does not exceed seventy-five percent (75%) of the market value of the structure immediately before the damage occurred, the structure may be repaired or reconstructed in its prior location and configuration, provided the nonconformity is not increased.
- (c) If the cost of repair or reconstruction exceeds seventy-five percent (75%) of the market value of the structure immediately before the damage occurred, the structure shall be reconstructed in conformity with the current requirements of this chapter unless relief is granted by the Zoning Board of Adjustment or other applicable approval body in accordance with this chapter.
- (d) Reconstruction shall begin within twelve (12) months after the date of damage and shall proceed diligently to completion, unless an extension is approved by the Planning and development director or designee due to insurance delays, permitting delays, engineering requirements, disaster recovery, litigation, or other good cause.
- (e) Damage or destruction of a structure shall not by itself terminate a lawful nonconforming land use unless the use is abandoned under this article or terminated in accordance with applicable state law.
- (f) Nothing in this section shall prohibit reconstruction required to comply with building code, floodplain, fire code, windstorm, health, safety, or property maintenance requirements.
- (g) This section shall not authorize the reestablishment of a nonconforming use that has been abandoned under §111-363.

§111-365. Nonconforming lots.

- (a) A lawful nonconforming lot may be used for a permitted use in the zoning district in which it is located, provided that development complies with all applicable setbacks, lot coverage, height, drainage, access, utility, building code, and other applicable requirements to the greatest extent practicable.
- (b) A lawful nonconforming lot shall not be reduced in area, width, depth, frontage, or access in a manner that increases the nonconformity.
- (c) Where two or more contiguous lots are under common ownership, nothing in this section shall require the lots to be combined unless otherwise required by subdivision regulations, platting requirements, utility standards, floodplain regulations, or other applicable law.

§111-366. Nonconforming site conditions.

- (a) A lawful nonconforming site condition may continue unless otherwise required to be corrected by this chapter, building code, fire code, drainage requirements, property maintenance regulations, or other applicable law.

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- (b) Expansion, redevelopment, change of use, change of occupancy, or substantial improvement of a site may require correction of nonconforming site conditions to the extent proportional to the scope and impact of the proposed work and as authorized by this chapter.
- (c) The Planning and development director or designee may require reasonable improvements to parking, access, drainage, landscaping, screening, lighting, fire access, or similar site conditions where necessary to protect public health, safety, and welfare, provided such improvements are proportional to the scope and impact of the proposed work and authorized by this chapter.

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§111-367. Repairs, maintenance, and safety.

- (a) Ordinary maintenance and repair of a lawful nonconforming structure shall be permitted.
- (b) Repairs shall not increase the degree of nonconformity unless authorized by this chapter.
- (c) Nothing in this article shall prevent the city from requiring repair, securing, removal, or abatement of unsafe, dangerous, dilapidated, or nuisance conditions under applicable city codes or state law.

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§111-368. Administrative determination and appeal.

- (a) The Planning and development director or designee may determine whether a use, structure, lot, or site condition has lawful nonconforming status.
- (b) The Director or designee may require the applicant or property owner to provide documentation necessary to establish lawful nonconforming status.
- (c) A written determination shall identify the nature and extent of the nonconformity and any limitations on continuation, repair, reconstruction, change, or expansion.
- (d) A decision of the Planning and development director or designee under this article may be appealed in accordance with the applicable appeal procedures of this chapter.

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§111-369. Amortization or required termination of nonconforming land use.

- (1) Any requirement by the city to terminate or cease a lawful nonconforming land use shall comply with Texas Local Government Code § 211.019 and any other applicable state or federal law.
- (2) Nothing in this article shall be construed to authorize termination of a lawful nonconforming land use without providing any notice, process, remedy, compensation, or continued-use period required by state law.
- (3) This section shall not limit the city's authority to enforce against unlawful uses, unsafe structures, nuisance conditions, violations of building or fire codes, violations of property maintenance standards, or uses that do not have lawful nonconforming status.

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A nonconforming status shall exist under the following provisions:

- (1) 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 November 20, 1974, and has been operating since without discontinuance:
- (2) When, on the effective date of the ordinance from which this article is derived, the use or structure was in existence and lawfully constructed, located and operating in accordance with the provisions of the prior zoning ordinance or which was a nonconforming use thereunder, and which use or structure does not now conform to the regulations herein prescribed for the district in which such use or structure is located:

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(3) —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 at the time of annexation to the City of Harlingen and has since been in regular and continuous use.
(Code 1997, § 159.130; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 14-33, § I, adopted 9/3/2014)

§ 111-358. Continuation or discontinuation of a noneconforming use.
Any noneconforming use of land or structures may be continued for definite periods of time subject to such regulations as the board of adjustments may require for immediate preservation of the adjoining property prior to the ultimate removal of the noneconforming use. The chief building official may grant a change of occupancy from one noneconforming use to another, providing the use is within the same, or higher, or more restrictive classification as the original noneconforming use. In the event a noneconforming use of a building may be changed to another noneconforming use of more restrictive classification, it shall not later be changed to a less restrictive classification of use and the prior less restrictive classification shall be considered to have been abandoned.

(a) —If a structure occupied by a noneconforming use is destroyed by fire, the elements or other cause, it may not be rebuilt except to conform to the provisions of this article. In case of partial destruction of a noneconforming use not exceeding 75 percent of its current fair market value, reconstruction will be permitted but the size or function of the noneconforming use cannot be expanded.

(b) —When a noneconforming use is discontinued for a consecutive period of 90 days, or discontinued for any period of time without a present intention of resuming that activity, then the property may thereafter be used only in conformity with all of the regulations applicable to the pre-existing use. However, a similar type of use in an existing vacant building that is using the same footprint that existed prior to the last approved occupancy, shall be permitted to operate with the existing parking.

(c) —All of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a noneconforming apartment building for 90 days shall not result in a loss of the right to rent the apartment or space thereafter so long

(d) —as the apartment building as a whole is continuously maintained. But if a noneconforming use is maintained in conjunction with a conforming use, discontinuance of a noneconforming use for the required period shall terminate the right to maintain it thereafter.

(e) —When a structure or operation made noneconforming by this article is vacant or discontinued on the effective date of the ordinance from which this article is derived, the 90-day period for purposes of this section begins to run on the effective date of the ordinance from which this article is derived.

(Code 1997, § 159.131; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 14-30, § I, adopted 9/3/2014; Ordinance 14-33, § I, adopted 9/3/2014)

§ 111-370~~59~~. through § 111-389. (Reserved)

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ARTICLE XIV PLANNING AND ZONING COMMISSION

§ 111-390. Organization.

The mayor shall appoint two (2) members and Commissioner-Place 1, Commissioner-Place 2, Commissioner-Place 3, Commissioner-Place 4 and Commissioner-Place 5 shall each appoint one (1) member to the planning and zoning commission. A chairperson and vice-chairperson will be elected by the members each year during annual elections by the planning and zoning commission. The planning and zoning commission shall consist of seven (7) members, each to be appointed by the mayor or city commission for a maximum term of three (3) years, but in no case shall the term of a member exceed the office of the mayor or commissioner making such appointment. In the event a member of the planning and zoning commission vacates office during his term, the mayor or commissioner making such appointment shall appoint a replacement who shall serve for a term not to exceed the remaining term of office of the mayor or commissioner making said replacement appointment. Each appointee to said board shall be at least 18 years of age and each appointee or the appointee's spouse must be a resident of the city or work or operate a business in the city and be of good moral character and demonstrate an interest in the general welfare of the city. Each appointee shall continue to serve until a successor is appointed. An appointee shall forfeit his office if such appointee fails to attend three (3) meetings during any 12-month period.

(Code 1973, § 2-291; Code 1997, § 159.140; Ordinance 62-25, adopted 12/15/1962; Ordinance 83-30, adopted 4/6/1983; Ordinance 88-59, adopted 10/19/1988; Ordinance 92-75, adopted 10/7/1992; Ordinance 97-35, adopted 7/2/1997; Ordinance 07-74, adopted 12/5/2007)

§ 111-391. Jurisdiction.

- (a) The powers and duties of the planning and zoning commission shall be to:
- (1) Hold hearings, conduct investigations and make recommendations to the city commission relative to changes and amendments to the zoning regulations of the city.
 - (2) Hold hearings to conduct investigations and approve or disapprove proposed plats of subdivisions of land within the city and land within five miles of the city (the extraterritorial jurisdiction). If the planning and zoning commission fails to act on a preliminary or final plat due any reason at its regularly scheduled meeting on which the plat was or was to be on the meeting agenda, and the plat has not otherwise been approved by operation of law, said plat shall be placed for consideration at the next scheduled meeting of the city commission.
 - (3) Hold hearings, conduct investigations and make recommendations to the city commission relative to the future plans and developments of the city.

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- (b) All hearings conducted by the planning and zoning commission relative to proposed changes or amendments to the zoning regulations of the city, and proposed zoning of new additions to the city shall be open to the public, and before the 10th day before the hearing date, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed. The notice may be served by its deposit in the municipality, properly addressed with postage paid, in the United States mail. If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the municipality and is not included on the most recently approved municipal tax roll, the notice shall be given in the manner provided

by Texas Local Government Code § 211.006(a). Upon the holding of such hearings by the planning and zoning commission, all persons entitled to notices as above stated shall be given an opportunity to present evidence for or against the proposed new zoning, and if necessary to permit all persons to be heard, such hearings may be continued from day to day and from time to time as shall be necessary to give all persons desiring to do so, an opportunity to be heard. (Code 1973, §§ 2-292, 2-293; Code 1997, § 159.141; Ordinance 62-25, adopted 12/5/1962; Ordinance 97-35, adopted 7/2/1997; Ordinance 07-74, adopted 12/5/2007)

§ 111-392. Action of the commission.

- (a) Any four (4) members shall constitute a quorum for the transaction of the business. The affirmative vote of a majority of those attending any meeting at which there is a quorum present shall be necessary to pass any motion, recommendation or resolution of the planning and zoning commission. The chairperson does not vote except in the event of a tie.

- (b) All recommendations to the city commission relative to any matter within the jurisdiction of the planning and zoning commission as set forth in this Ord. No. 12-16, § 2, 3/7/2012 shall be submitted in writing, which written recommendation shall be included in the minutes of the meeting of the city commission at which the recommendations are presented. For information on the appeal process, refer to section 111-31(h).

(Code 1973, § 2-294; Code 1997, § 159.142; Ordinance 62-25, adopted 12/5/1962; Ordinance 97-35, adopted 7/2/1997; Ordinance 01-16, adopted 2/21/2001)

§ 111-393. through § 111-412. (Reserved)

ARTICLE XV SPECIAL USE PERMITS

§ 111-413. Special use permit process.

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The city commission, after public hearing and proper notice to all property owners within 200 feet (1,000 feet if the use is a food truck park) of the property involved, and after recommendations by the planning and zoning commission, may authorize the issuance of special or qualified use permits. The planning and development director shall waive the public hearing process for a special use permit application for a portable building and/or storage building as indicated in section 111-62 if certain conditions are met. The special use permit application for a portable building and/or storage building shall be administratively approved when no written complaints have been filed by any person with the planning and development department within 10 days from the date of publication of notice in the local newspaper of record and the mailing of the notice to all property owners within 200 feet of the site in question. If a written complaint has been filed with the planning and development department concerning a permit for a portable building and/or storage building, the permit shall be processed as an original application in compliance with this section.

- (1) The planning and zoning commission, in considering and determining its recommendation to the city commission on any request for a special use permit under section 111-62, may require from the applicant, plans information, operating data and expert evaluation concerning the location, function, and characteristics of any building or use proposed, and shall require a site plan for a special use permit. The city commission may in the best interest of the public welfare and to ensure compliance with this chapter, establish conditions of operation, location, arrangement and authorizing the location of any of the uses listed as special use permits under sections 111-327 through 111-331. The city commission may impose such development standards and safeguards necessary for the protection of adjacent property and occupants thereof from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view, or other undesirable or hazardous conditions. If the planning and zoning commission recommends denial of a special use permit request, the items will not be carried forward to the city commission unless the decision is appealed following procedures referenced in section 111-31(h).
- (2) Any use permit recommended by the planning and zoning commission and issued by the city commission may be qualified as described in subsection (a) of this section.
- (3) The use permit issued by the city commission shall be deemed an amendment to chapter 111, and the development shall be in keeping with the plans and specifications and other data submitted to the planning and zoning commission and the city commission for the purpose of securing such use permit.
- (4) Deviation or departure from the special use permit shall be deemed a violation of this chapter and shall void such special use permit.
- (5) The city commission shall approve or deny an application for a special or qualified use permit within six months of the filing of a properly completed application.
- (6) Special and qualified used permits granted after June 20, 1990, shall be personal to the grantee and shall be transferred only by cancellation of the existing permit and issuance of a new permit. However, special and qualified use permits granted or uses

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where an "s" appears under any one or more the "residence" classifications in section 111-62 shall run with the land for all classifications including nonresidence ones.

- (7) If the business for which a special use permit was granted ceases operation for a continuous period of three (3) months or more, such permit shall automatically lapse. However, a special and qualified use permit granted for a use where an "s" appears under any one or more of the "residence" classifications in section 111-62 shall run with the land for all classifications including nonresidence ones. Furthermore, the planning and zoning commission and city commission may grant a special use permit that may run with the land rather than the owner if the use was built specifically for one purpose and could not be used otherwise without major renovations (e.g., residential garden homes in an R-1 zone or an established business which was built for a particular use which will not change).
- (8) The decision by the city commission regarding the denial, suspension or revocation of a special or qualified use permit is final.
- (9) The placement of a portable building on the site prior to the issuance of a special use permit shall result in doubling the special use permit fee as established in the city fee schedule in chapter 18 plus provisions for a repeat offender to be subject to court citation with a maximum possible fine as established in the city fee schedule in chapter 18.

(Code 1997, § 159.144; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 98-44, adopted 9/16/1998; Ordinance 01-16, adopted 2/21/2001; Ordinance 02-42, adopted 5/1/2002; Ordinance 02-73, adopted 7/17/2002; Ordinance 2021-07, § I, adopted 2/17/2021)

§ 111-414. Special use permit for sexually oriented businesses.

The process for this type of special use permit is exactly the same as described above for any special use permit with the exception that there is a bi-annual renewal requirement for businesses conducting a sexually oriented business under a special use permit. As specified in section 4-3, no person or other entity shall sell any alcoholic beverages or operate a business for the sale of any alcoholic beverage, within 300 feet of any church, public school, or public hospital. The measurement of the aforesaid 300 foot distance shall be along the property lines of the street fronts and from front door to front door and in direct line across intersections, where they occur. This bi-annual review is to ensure that the business maintains a standard of conduct in accordance with public health, safety, welfare and morals. Any citizen who wishes to file a complaint against an establishment of this nature may do so with the police department at any time. When a permit is up for renewal, staff will check with the police department for any such complaints. If the establishment has excessive complaints as determined by the planning and zoning commission and city commission, it will be reason enough to deny a renewal of such permit.

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- (1) Location. In no event shall any sexually oriented business be located within a 1,500 foot radius of a school, church, hospital, day nursery, or kindergarten school, park, residentially zoned area or another sexually oriented business measured from the nearest property line of a property developed with a sexually oriented business to the nearest property line of a school, church, hospital, day nursery or kindergarten school, park, residentially zoned area or another sexually oriented business.
- (2) Application. No special use permit shall be approved unless a sexually oriented business special use permit application has been completed and turned in prior to the deadline date for the applicable planning and zoning commission meeting. In addition, a background check will be run on the applicant. If an applicant fails to provide all requested information or supplies false, fraudulent, or untruthful information on the application this shall be just cause to deny the permit.
- (3) Regulations for exhibition of sexually explicit films or videos. A person who operates a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space a sexually explicit film, videocassette or other video reproduction shall comply with the following requirements:
 - a. The application for a sexually oriented business special use permit shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches.
 - b. No alteration in the configuration or location of a manager's station may be made without the prior approval of the chief of police.
 - c. It is the duty of the applicant/licensee, the owners, the partial owners and their agents and employees at the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - d. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each

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area of the premises to which any patron is permitted access for any purpose from at least one (1) of the managers' stations. The view required in this division must be by direct line of sight from the manager's station.

- e. It shall be the duty of the applicant/licensee, owners, the partial owners, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection (3)d of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the diagram filed pursuant to subsection (3)a of this section.
 - f. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle as measured at the floor level.
 - g. It shall be the duty of the applicant/licensee, the owners, partial owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above, is maintained at all times that any patron is present in the premises.
- (4) Denial of application for certain offenses. A sexually oriented business special use permit application shall be denied if an applicant or an owner or partial owner has been convicted of a crime:
- a. Involving a violation of Texas Penal Code Ch. 21 (other than section 21.06) or 43, or Texas Penal Code § 22.011, 22.021, 25.02, 25.06 or 25.07, together with future amendments thereof, or corresponding laws of other state or federal governments or criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses.
 - b. For which:
 - 1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - 2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - 3. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within a 24-month period.

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- c. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or the partial owner.
- (5) Suspension. The chief of police shall suspend a sexually oriented business special use permit for a period not to exceed 30 days if he determines that an applicant/licensee, owner, partial owner, or employee of an applicant/licensee has:
- a. Violated any of the items mentioned in this subsection or violated subsection (4) of this section.
 - b. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises.
 - c. Refused to allow an inspection of the sexually oriented business premises by the fire marshal, environmental health department, police department, or building inspectors during regular business hours or fails to comply with applicable fire, health, building, and business regulations.
 - d. Permitted gambling by any person on the sexually oriented business premises.
- (6) Revocation.
- a. The chief of police shall revoke a sexually oriented business special use permit if a cause of suspension mentioned above occurs and the permit has been suspended within the preceding 12 months or if he determines that:
 - 1. An applicant/licensee, owner, or partial owner gave false or misleading information in the material submitted during the application process.
 - 2. An applicant/licensee, owner, partial owner, or employee of an applicant/licensee has allowed possession, use, or sale of controlled substances on the premises.
 - 3. An applicant/licensee, owner, partial owner, or employee of an applicant/licensee has allowed prostitution on the premises.
 - 4. An applicant/licensee, owner, partial owner, or employee of an applicant/licensee has operated the sexually oriented business during a period of time when the sexually oriented business special use permit was suspended.
 - 5. An applicant/licensee, owner, or partial owner has been convicted of an offense listed in subsection (5)a.1 of this section for which the required time period has not elapsed.
 - 6. On two (2) or more occasions within a 12-month period, a person or person committed an offense occurring in or on the premises of a crime listed in subsection (5) of this section for which a conviction has been obtained and the person or persons were employees of the sexually oriented business at the time the offenses were committed.

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7. An applicant/licensee or an employee has allowed to occur or engaged in any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in Texas Penal Code § 21.01.
8. An applicant/licensee is delinquent in payment to the city for hotel occupancy taxes, ad valorem taxes or sales taxes related to the sexually oriented business.
- b. When the chief of police revokes a permit, the applicant/licensee shall not be issued a sexually oriented business special use permit for one year from the date revocation became effective.
- (7) Appeal. An appeal from such a revocation or suspension may be taken to the city commission within 10 calendar days from the revocation or suspension.
- (8) Previously existing nonconforming uses. Nonconforming uses where sexually oriented business are operated on the date of adoption hereof shall be exempt from the application and location provisions hereof, but all other provisions of this chapter shall apply equally to such previously existing nonconforming uses.

(Code 1997, § 159.145; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 08-29, adopted 4/2/2008)

§ 111-415. through § 111-441. (Reserved)

ARTICLE XVI

ZONING BOARD OF ADJUSTMENT

§ 111-442. Organization.

- (a) Purpose. The zoning board of adjustments is a quasi-judicial sovereign board empowered by Chapter 211 of the Texas Local Government Code to grant relief from literal enforcement of the City of Harlingen zoning ordinances in certain situations as set out by this chapter and to hear appeals on administrative officials' decisions regarding city ordinances.
- (b) Board composition; terms. The board of adjustments shall consist of five (5) regular board members, and five (5) alternate board members to serve in the absence of one (1) or more regular members when requested to do so by the mayor, the city manager, or their assigns.
 - (1) Each appointee to the board shall be at least 18 years of age and must be a resident of the city. All appointees must be of good moral character and demonstrate an interest in the general welfare of the city.

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- (2) The mayor and each commissioner shall appoint one (1) regular member and one (1) alternate member to the new board. All appointments will be for a term of three (3) years. Each appointee shall continue to serve until a successor is appointed. The number of terms a member may serve shall not be limited. The appointees shall be selected on a rotating basis among the mayor and commissioners in accordance with an administrative schedule kept by the city secretary.
 - (3) In the event a member of the board vacates office during their term, the mayor or commissioner who appointed the vacating board member shall appoint a replacement who shall serve the remaining term of the vacating board member.
 - (4) The board annually shall elect from its regular membership a chairperson who shall preside at the meetings and vote as a regular member. The board also annually shall elect a vice-chairperson who shall preside in the absence of the chairperson.
 - (5) A quorum consists of four (4) regular or alternate members.
 - (6) A regular board member shall forfeit their office if such appointee fails to attend three (3) consecutive meetings. Members are removable for cause by majority of the city commission upon written charges and after public hearing.
- (c) Rules and regulations. The board shall by majority vote adopt rules to govern its proceedings; provided, however, that such rules are not inconsistent with this chapter or statutes of the State of Texas.
- (1) Meetings of the board shall be held at the call of the chairperson, by city staff, or at such other times as the board may determine. The chairperson, or in their absence the vice-chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public.
 - (2) The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
 - (3) Each case before board of adjustments must be heard by 75 percent of the members; the concurring vote of 75 percent of the members of the entire board is necessary to pass any measure or take any action as described further in this article.

(3) -

(Code 1997, § 159.150; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-4, adopted 1/15/1997; Ordinance 97-35, adopted 7/2/1997; Ordinance 2018-37, § I(Exh. A), adopted 10/3/2018)

§ 111-443. Authority of board.

- (a) The zoning board of adjustments may:

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- (1) Hear and decide the following special exceptions to the terms of a zoning ordinance:
 - a. The reconstruction, extension, or enlargement of a building occupied by nonconforming use on the lot or tract occupied by such building, provided such reconstruction does not prevent the return of such property to a conforming use.
 - b. Modifications to the height, yard, area, coverage and parking regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape, or slope that it cannot be appropriately developed without such modifications.
 - c. The discontinuance of nonconforming uses of land or structures under any plan whereby the full value of the structures and facilities can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity for all property to conform to the regulations of this chapter. All actions to discontinue a nonconforming use of land or structure shall be taken with due regard for the property rights of the persons affected when considered in a light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of property. The board shall from time to time on its own motion or upon cause presented by interested property owners inquire into the existence, continuation or maintenance of any nonconforming use within the city.
- (2) Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice done.
 - a. No variance requests will be accepted or approved for height exceptions within the airport overlay zones as established in section 111-532(b)(2) and (b)(3). These zones are based on the elevation contour map in the vicinity of the Valley International Airport as established in section 111-532(c).
- (3) The board may consider the following as grounds to determine whether compliance with the zoning ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - a. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Sec. 26.01, Tax Code;
 - b. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;

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- c. Compliance would result in the structure not being in compliance with a requirement of this zoning ordinance, another municipal ordinance, building code or other requirement;
 - d. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - e. This zoning ordinance identifies the structure as a nonconforming structure.
- (4) Hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or an ordinance adopted under this chapter.

- a. Such appeal shall be taken within a reasonable time as determined by the rules of the board of adjustment after the decision has been rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with the board of adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the

record upon which the action appealed from was taken.

- b. Appeal proceedings. An appeal shall stay all proceedings of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment, after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise, than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.
- c. Public notice of appeal. The board of adjustment shall fix a reasonable time for the hearing of an appeal, and give public notice of the hearing and due notice to the parties in interest. A party may appear at the hearing in person or by agent or by attorney.

(Code 1997, § 159.151; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 01-35, adopted 4/18/2001; Ordinance 01-74, adopted 9/5/2001; Ordinance 03-31, adopted 5/21/2003; Ordinance 2018-37, § I (Exh. A), adopted 10/3/2018)

§ 111-444. Appeal of decisions by the zoning board of adjustment.

- (a) When an appeal has been denied by the board, a new application will not be considered by the zoning board of adjustment within two (2) years of the date of denial or withdrawal unless the application was denied without prejudice or the new plans materially changed the nature of the case.

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- (b) Any of the following persons may present to a district court, county court, or county court at law a verified petition stating that the decision of the board of adjustment is illegal in whole or in part and specifying the grounds of the illegality:
- (1) A person aggrieved by a decision of the board;
 - (2) A taxpayer; or
 - (3) An officer, department, board, or bureau of the municipality.
- (c) The petition must be presented within 10 days after the date the decision is filed in the board's office.
- (d) On the presentation of the petition, the court may grant a writ of certiorari directed to the board to review the board's decision. The writ must indicate the time by which the board's return must be made and served on the petitioner's attorney, which must be after 10 days and may be extended by the court. Granting of the writ does not stay the proceedings on the decision under appeal, but on application and after notice to the board, the court may grant a restraining order if due cause is shown.
- (e) The board's return must be verified and must concisely state any pertinent and material facts that show the grounds of the decision under appeal. The board is not required to return the original documents on which the board acted but may return certified or sworn copies of the documents or parts of the documents as required by the writ.

~~(e)~~
(Code 1997, § 159.152; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997; Ordinance 2018-37, § I (Exh. A), adopted 10/3/2018)

§ 111-445. through § 111-471. (Reserved)

ARTICLE XVII ENFORCEMENT

§ 111-472. Zoning enforcement.

~~(a)~~ The director of planning and development, or their designee, shall administer the provisions of this chapter.

(a)
~~(b)~~ The director of planning and development, or any duly authorized person, shall have the right to enter upon the premises at any reasonable time for the purpose of making inspection of buildings or premises necessary to carry out the duties in the enforcement of this chapter.

(b)
~~(a)(c)~~ If the director of planning and development or the authorized representative shall find, or if any person advises the department of planning and development of a complaint alleging that any of the provisions of this chapter are being violated, he shall investigate such claims and when necessary give written notice to the person responsible to cease such violations. If such reasonable efforts are made to discontinue the actions violating a portion of the chapter

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and the property owner does not comply, the director of planning and development or authorized representative shall have the authority to cite the property owner to municipal court.

(Code 1997, § 159.160; Ordinance 97-35, adopted 7/2/1997)

§ 111-473. Preserving rights in pending litigation/violations under existing ordinances.

By passage of this chapter, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this chapter that no offense committed, and no liability, penalty or forfeitures, either civil or criminal, incurred prior to the time the existing zoning ordinance was repealed and this chapter adopted shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted for cause presently pending proceeded with in all respects as if such prior ordinance had not been repealed.

(Code 1997, § 159.161; Ordinance 74-36, adopted 11/20/1974; Ordinance of 10/20/1993; Ordinance 97-35, adopted 7/2/1997)

§ 111-474. through § 111-499. (Reserved)

:

ARTICLE XVIII DOWNTOWN DISTRICT OVERLAY

§ 111-500. Purpose.

The downtown district overlay is hereby established to help achieve specific goals as laid out in several city plans including the comprehensive plan, the Harlingen First Blueprint for Economic Vitality, and the downtown improvement service plan adopted by city commission and as called out below:

- (1) Enhance safety in the district;
- (2) Recognize the importance of a vital economy especially in a downtown district;
- (3) Support the creation of jobs;
- (4) Minimize the subjectivity of project selection;
- (5) Prevent encroachment of incompatible uses that would disturb the achievements intended to be accomplished;
- (6) Enhance and preserve buildings of local historic significance and heritage;

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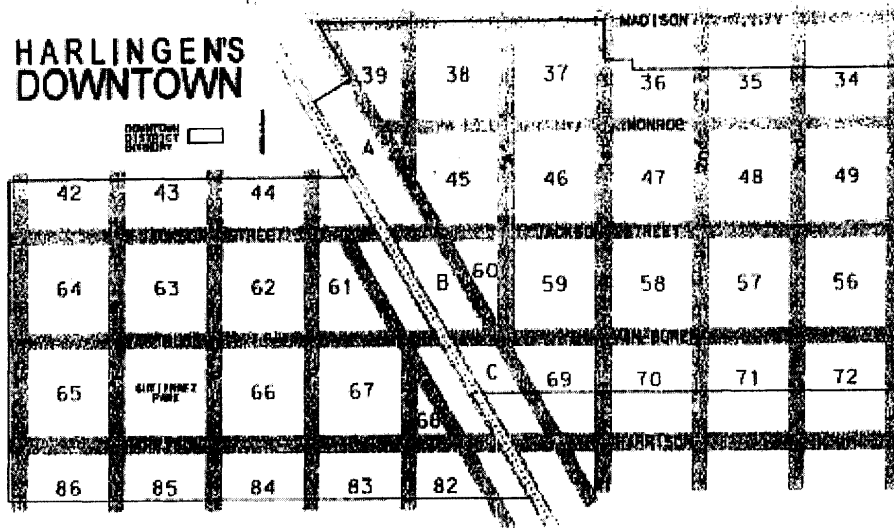
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- (7) Establish a unifying theme that respects the downtown's unique qualities, enhances its historical and cultural character, and promotes aesthetic and functional design;
 - (8) Enhance landscaping for public and private open spaces to provide shade, comfort, and aesthetic quality;
 - (9) Encourage pedestrian movement and connections;
 - (10) Develop a venue for cultural arts and entertainment.
- (Code 1997, § 159170; Ordinance 99-42, adopted 6/16/1999; Ordinance 07-27, adopted 4/18/2007; Ordinance 08-32, adopted 4/16/2008)

§ 111-501. Description and map of district.

The downtown district boundaries are as follows: From the alley immediately south of Harrison Street at the railroad tracks west to the centerline of "F" Street, then north to the alley immediately north of Jackson Street, then east to the east side of the railroad tracks, north to the north lot line of Lot 18 east to the centerline of Commerce Street, then north to the centerline of Madison Street, then east to the centerline of First Street, then south to a point in Lot 1, 100 feet south of north lot line, then east to the middle of Lot 2, then south to the alley immediately north of Monroe Street, then east along the alley to the centerline of Fourth Street, then south to the alley immediately north of Harrison Street, then along the alley west to the railroad tracks, then south along the railroad tracks to the alley immediately south of Harrison Street at the railroad tracks, as displayed below:



(Code 1997, § 159.171; Ordinance 99-42, adopted 6/16/1999; Ordinance 01-75, adopted 9/5/2001; Ordinance 07-27, adopted 4/18/2007; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010)

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§ 111-502. Definitions.

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

Alcohol establishments means any business serving alcohol as its primary product (meaning that more than 50 percent of its sales are derived from alcohol).

Block means an area enclosed by street and occupied by or intended for buildings, or if used as a term of measurement, it shall mean the distance along the side of a street between the nearest two (2) streets which intersect said street on the same side.

Harlingen's Downtown Board (HDB) means a 12-member board consisting of owners or representatives of owners of real property within the district. The mayor and each city commissioner shall each appoint one (1) member from the downtown improvement district geographic area (described as east of the railroad tracks), as established in Ordinance No. 05-16, Section HI.

Historical significance and heritage means any structure which contains unique architectural features which are attributable to the specific time period and cultural environment during which the district was formed.

Obsolete sign means a sign that advertises a business no longer in existence, or one that is illegible, or in disrepair.

Overlay district or zone means an additional level of zoning requirements that is superimposed over the existing zoning in the area.

Site plan means a drawing showing the locations, dimensions, and arrangement of a parcel of land,

including type and size of buildings, landscaped areas, parking and other elements necessary to issue a building permit or re-occupancy permit.

(Code 1997, § 159.172; Ordinance 99-42, adopted 6/16/1999; Ordinance 07-27, adopted 4/18/2007; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010)

§ 111-503. Standards.

- (a) No building shall be constructed, reconstructed, altered, or razed without prior approval by the HDB. This includes any exterior construction or renovation such as, but not limited to, painting, signage, windows, and awnings. Any alteration and/or renovation of specific items (windows, awnings, facade, and the like) shall require compliance with the regulations described in this section for such individual items.
- (b) As applicable, no building or demolition permits will be issued by the city without approval of such permits by the HDB.
- (c) An application for a city building permit shall be submitted to the building inspections division or, if no building permit is required for the project proposed, an application and all supporting documents shall be submitted directly to the HDB. Complete applications will be reviewed and either approved or denied by the HDB within 10 working days or will be deemed automatically approved.
- (d) Projects subject to subsection (a) or (b) of this section that are denied by the HDB for noncompliance with this article, may be appealed by the applicant to the city

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commission within 10 days of such denial. The city commission shall, by majority vote, approve or deny such projects based on compliance with this article.
(Code 1997, § 159.173; Ordinance 99-42, adopted 6/16/1999; Ordinance 07-27, adopted 4/18/2007; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010)

§ 111-504. Variance procedures.

Variance procedures are defined in article XVI of this chapter.
(Code 1997, § 159.174; Ordinance 99-42, adopted 6/16/1999; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010)

§ 111-505. Special use permits.

- (a) No special use permit application for this district shall be heard by the city commission until it has received a recommendation from the planning and zoning commission.
- (b) No special use permit application for any sexually oriented business in this district will be considered.
- (c) With the above conditions excepted, special use permits are obtained as specified in this chapter. (Code 1997, § 159.175; Ordinance 99-42, adopted 6/16/1999; Ordinance 07-27, adopted 4/18/2007; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010; Ordinance 2025-28 adopted 5/21/2025)

§ 111-506. (Reserved)

§ 111-507. Texas Alcohol Beverage Commission (TABC) liaison.

- (a) The director of planning and development or their designee shall have authority to process and approve alcoholic beverage applications on behalf of the city and to base such approval on the following:
 - (1) An establishment meeting or exceeding one (1) or more of the criteria set forth below will not be eligible for a city liquor permit renewal and will be subject to permit revocation at any time during the permit period if violations established below are met or exceeded. (All violations refer to those that take place within the establishment.)
 - a. Five (5) unreported fights or disturbances;
 - b. Two (2) separate incidents which result in a homicide or homicides;
 - c. Any one (1) offense of prostitution, lewd conduct, gambling, drug or narcotics possession or sales, or assault permitted or committed on the premises, by act or omission, by the owner, agent or employee of the premises;
 - d. 15 arrests of intoxicated persons on premises;

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- e. Any two (2) sales of alcoholic beverages to a minor by the owner, agent or employee of the premises; or
 - f. Two (2) violations in the hours of operation.
- (2) Any establishment denied the renewal of a city liquor permit due to meeting or exceeding the above criteria will require a new special use permit to open or re-open any bar at the same location regardless of duration of closure of previous establishment (that is, no grandfathering).
- (3) A 50-foot spacing is required between any existing bar/lounges and any new bar/lounges being established or re-established. Such distance shall be measured by shortest line distance from property line to property line.
- (4) The initial permit approval (SUP) for a bar/lounge shall be no longer than one (1) year.

(b) Appeal process. Any person who are denied renewal of a liquor license due to this article may appeal the administrative decision to the city commission in writing within 10 working days of the official denial of renewal. The decision of the city commission shall be by simple majority vote.

(b)
(Code 1997, § 159.177; Ordinance 99-42, adopted 6/16/1999; Ordinance 00-88, adopted 11/1/2000; Ordinance 01-101, adopted 10/30/2001; Ordinance 02-41, adopted 5/1/2002; Ordinance 03-26, adopted 5/7/2003; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010; Ordinance 10-35, adopted 8/4/2010)

§ 111-508. Maintenance and upkeep.

In order to accomplish the intent of this article, buildings and property shall be maintained in both good structural condition and positive aesthetic appearance. Neglect of buildings and/or property, including structural defects, shall be prevented by compliance with not less than the minimum standards listed herein. The city shall give written notice to building owners and/or tenants as to any violations, which include, but are not limited to the following:

- (1) Broken windows or glass;
- (2) Crumbling, broken or loose materials such as paint, bricks, paneling, and the like;
- (3) Deteriorated, ineffective, or missing portions or entireties of any exterior wall, partition, or roof;
- (4) Accumulations of rubbish or debris;
- (5) Obsolete signs (as defined in this article);
- (6) Residual surface damage, scarring, discoloration, uneven natural fading of paint, or any other damage due to normal wear and tear or the removal or loss of signs, awnings, and other such parts and appurtenances;
- (7) Incomplete exterior alterations, painting or other surface repairs and replacements;

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(8) Other conditions as defined in the unsafe building ordinance.
(Code 1997, § 159.178; Ordinance 99-42, adopted 6/16/1999; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010)

§ 111-509. Design guidelines.

The appearance of the district is the result of an evolutionary process in which buildings stay the same, are altered or are completely replaced. This process is continuous and inevitable. Its success or failure depends on how sensitive these changes are to the existing framework of buildings. Certain elements of a building's appearance are addressed in more detail here as elements that contribute to the overall quality of the district.

(1) Storefronts.

- a. Improvements. Improvements to buildings are encouraged through incentive programs for storefronts, signs, and fire safety enhancements.
- b. Owners working together. Owners of one-story buildings, which are not part of a larger structure and therefore are more easily overwhelmed by larger neighboring buildings, should relate to the buildings on either side of them. The most effective approach for building owners in this situation is to use similar storefront and sign designs to create a unified, attractive row of buildings.
- c. Materials.
 1. Any original materials on the building's facade, such as brick, stone, or glass are also part of the building's architecture and must not be painted or covered over.
 2. The following list of traditional and adaptable contemporary storefront materials must be utilized:
 - (i) Storefront window frames must be wood, hollow metal, or anodized aluminum;
 - (ii) Display windows must be clear glass or tinted glass which is still transparent;
 - (iii) Entrance door frames must be made of wood, steel, or aluminum;
 - (iv) Bulkheads must be finished with wood panels, brick, polished stone, glass, tile, masonry, or aluminum-clad plywood panels.
 3. Not allowed:
 - (i) Fake bricks;
 - (ii) Stone and gravel aggregate materials;
 - ~~(iii)~~ Reflective windows;

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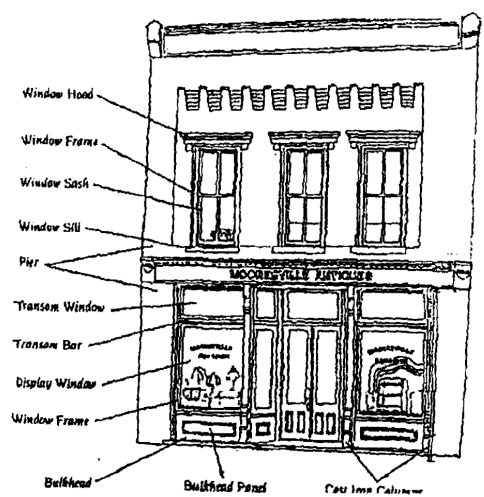
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- (iii)
- (iv) All glass fronts;
- (v) Sheet metal;
- (vi) Aluminum, composite, or plastic siding;
- (vii) Mirrored glass; or
- (viii) Metal or prefabricated buildings.

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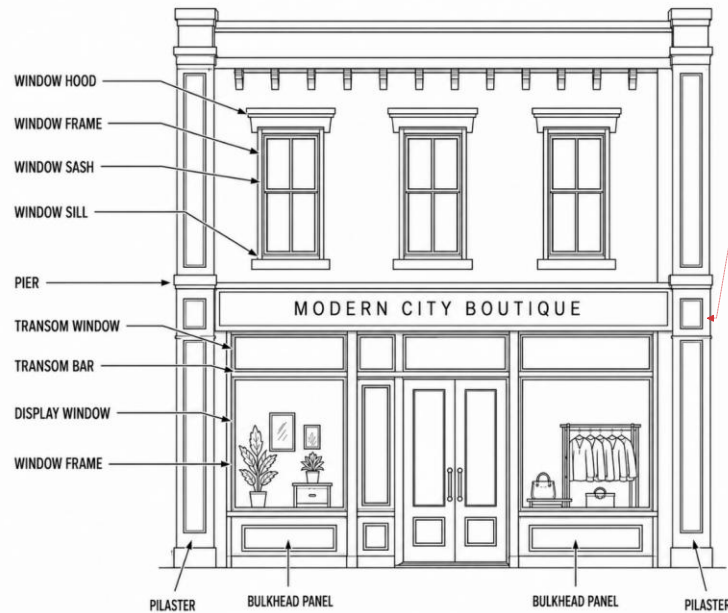
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- d. **Color.** Painting is one of the most dramatic improvements that can be made to a building. Choosing the right combination of colors can unify the building elements within the facade as well as relate the building to others on the block. The following criteria must be adhered to when considering color selection:
1. Coordinate with other colors on the block;
 2. The orientation of the building affects the appearance of colors;
 3. Historically, certain color types were associated with architectural styles;
 4. Colors must be used to highlight architectural details;
 5. No more than one (1) vivid color per building;
 6. No more than three (3) colors shall be used on one building;
 7. Base color for wall surfaces and storefront pier;
 8. Major trim color for cornices, window caps, window frames, columns, bulkheads;
 9. Minor trim color for window sashes, doors, storefront frame, and other small details;
 10. Bright and/or fluorescent colors are prohibited.

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- e. Storefronts windows. The style and type of windows help establish the historical character of buildings. Hence, the following shall be adhered to:
1. The original shape of the window as well as the original number and arrangement of panes shall be maintained;
 2. Shutters, unless appropriate to the style of the building, are not allowed;
 3. New window openings are not allowed unless they match the existing window configuration and their placement is consistent with the existing openings;
 4. Original windows facing the street on which the business is addressed shall not be filled, boarded up, or painted without prior approval of the HDB;
 5. Burglar bars may not be installed on the exterior of windows or doors facing a street;
 6. Windows that have been blocked in, boarded up, or painted must be restored to their original appearance, size and type. When original wooden frames cannot be duplicated or afforded, aluminum frames of similar profiles must be used. Factory painted finishes for aluminum are available;
 7. Mechanical devices and components such as air conditioners or exhaust vents shall not be placed in storefront windows, or mounted on the walls of a building along a public street (alleys would be acceptable) within the downtown district overlay.
- (2) Awnings and canopies. The use of awnings or canopies is strongly recommended for all commercial buildings. They encourage pedestrian traffic by protecting them from excessive heat or rain. They protect display window merchandise from damage, regulate the amount of heat and direct sunlight entering a store, and serve as a sign or help identify the business.
- a. The following standards apply to awnings and/or canopies:

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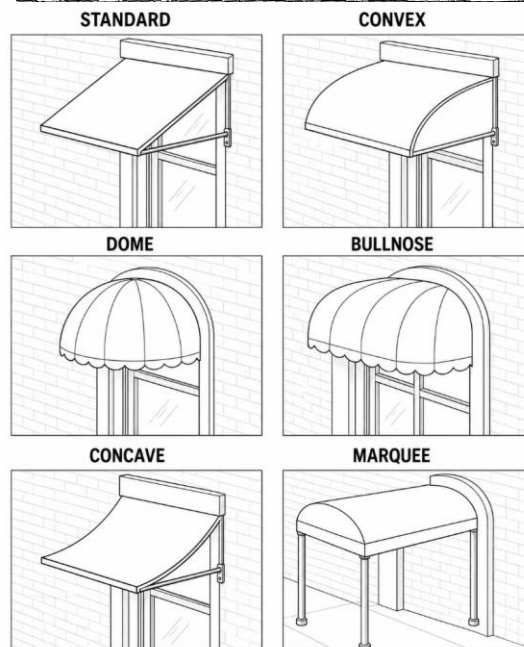
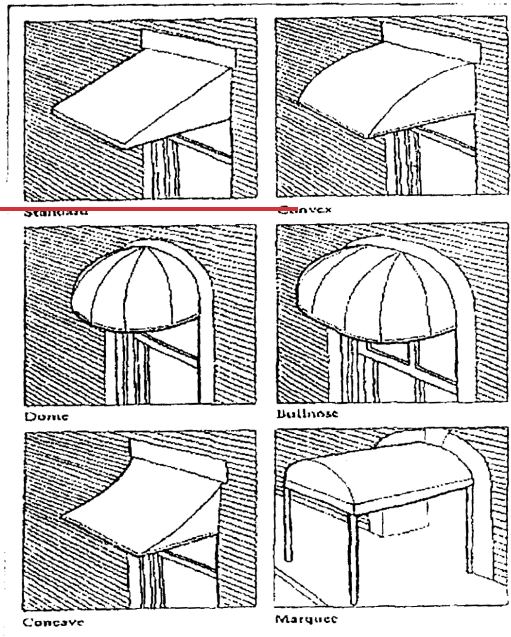
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1. Open air canopies or awnings of any type adjacent to or facing a street are prohibited.
 2. Street level awnings or canopies shall be no less than eight feet above the sidewalk.
 3. No portion shall extend closer than two (2) feet to the face of the curblin and should project out four (4) through six (6) feet from the building, but not farther than two-thirds the distance from the building to the curb.
 4. Only weather resistant canvas, vinyl, or standing seam metal are allowed (no wood or sheet metal).
 5. All framing materials shall be steel or aluminum and must be attached directly to the building.
 6. The shape must relate to other awnings and/or canopies on the same block. Recommended styles include standard, convex, dome, bullnose, concave, and marquee (see illustration).
- b. Not allowed:
1. Sloped and/or slatted aluminum.
 2. Mansard; awnings.
 3. Wood, sheet metal, plastic, or fiberglass.
- (3) Signs. All signs shall be subject to building permits and review as provided in the sign ordinance (section 46-116 et seq.). The function of the storefront sign is to inform the customer of the goods or services provided within. Limiting the amount of information to essentials most effectively conveys the sign message. Signs must be individual metal, plastic, or wood letters. A sign containing neon lights, is backlit, or has a plastic face is allowed. No plywood signs are allowed. Signs that are painted on the building shall be approved by the HDB prior to commencement of such painting.
- a. General sign guidelines.
1. No new off-premises signs, including billboards, are allowed;
 2. Signs are permitted on awnings provided they are painted, printed, or sewn onto the fabric;
 3. Permanent banners or flags (excluding government flags) will not be allowed. Temporary banners or flags are allowed for a period not to exceed 30 days per calendar year;
 4. Signs cannot obscure or destroy architectural detail on the building;
 5. Rooftop signs are not allowed;

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6. Window signs shall encompass no more than 30 percent of the total glass area, not including any neon outlining of the glass;
7. Total sign area of all signs on any building face, which also includes any windows, awnings, and canopies associated with such building face, shall not exceed the amount of linear building frontage facing the street (measured in feet) on which the building is addressed, multiplied by 1.5. Illustrative example: A building at 123 Anywhere Street has 50 feet of building frontage along Anywhere Street (i.e., it is 50 feet wide along Anywhere Street). The maximum available area for all signs on any particular building face shall not exceed 75 square feet (50 multiplied by 1.5).

A building that has frontage on a state highway shall be allowed 3.0 square feet per linear foot of building facing the street for all the signs on the premises. The maximum height of a free standing sign on the premises shall be no greater than 35 feet.

- b. Color. A dark background with light letters is most easily perceived by the human eye, depending on the base color of the building. A sign can be the best place to add lively color, but care should be taken to ensure that the sign colors compliment and relate to the building and its surroundings.

(4) Other exterior elements.

- a. Fencing. Fencing must be in character with the surroundings. Barbed wire fences shall not be permitted. Fences of brick, wrought iron, stucco, wood or concrete shall be encouraged. Fence requirements as included in this chapter.
- b. Walkways/sidewalks. Walkways or sidewalks must be maintained by the property owner in good condition and free of obstruction or debris.
- c. Landscaping. Native and low water usage landscaping shall be encouraged. Public areas use of alleys as public space shall be encouraged. Projects containing courtyards, public art
- d. or landscaping visible to the public shall be encouraged.

(Code 1997, § 159.79; Ordinance 99-42, adopted 6/16/1999; Ordinance 07-27, adopted 4/18/2007; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010; Ordinance 2020-09, § I, adopted 3/18/2020; Ordinance 2024-26 adopted 6/19/2024)

§ 111-510. New construction.

- (a) Downtown buildings are situated in one of two (2) arrangements relative to adjacent surroundings: hereinafter called either "infill buildings" or "stand-alone buildings" and are defined as follows:
 - (1) Infill buildings fill the width of space but not necessarily the depth of space between other buildings or groups of buildings. It should be flush with the adjoining buildings.

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- (2) A stand-alone building is situated not between other buildings or groups of buildings. One (1) or both of its sides face toward "open" space.
- (b) Any new infill building or replacement of an existing infill type of building must fill the entire space toward the street front and between the other buildings.
- (c) Any new stand-alone building or replacement of an existing stand-alone type of building must fill the entire space available toward the street front and toward any adjacent side street front.
- (d) Exterior design and the completed construction of any new or replacement existing building must be deemed by the HDB to satisfactorily reflect the desired characteristic rhythm of facades along the street, as well as all specific requirements given herein including alignment of building fronts. (See illustration below.)

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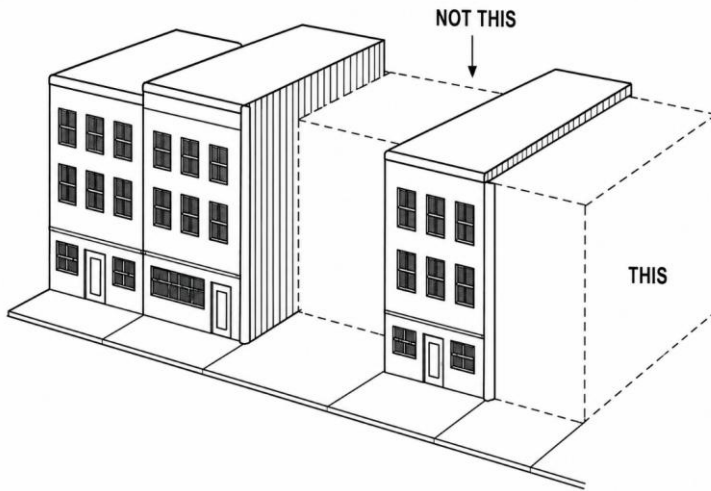
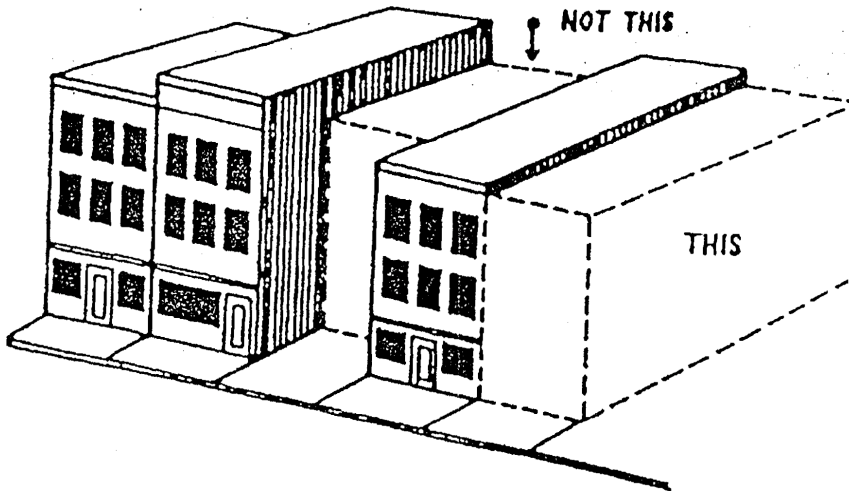
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- (e) All the requirements of this section applicable to any whole building new construction and replacement of existing buildings shall apply equally to other actions including the following:
- (1) Construction of additions onto, over or about the street-side fronts of any existing stand-alone building.

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- (2) Partial building demolition and repair or replacement of building structural members at the street-side front of any existing building.

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(Code 1997, § 159.180; Ordinance 99-42, adopted 6/16/1999; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010)

§ 111-511. Sidewalk displays.

- (a) For the purpose of commercial advancement of Harlingen's Downtown District, outdoor display of wares for sale will be allowed with the approval of a permit from the HDB. This is intended to allow merchants with proper permits to display regular store merchandise outside the enclosed establishment.
- (b) The permit review process will be overseen by the HDB or a subcommittee delegated by the HDB. The HDB or delegated committee will actively pursue the highest standards of aesthetic presentation of the downtown area are upheld. They will also ensure, through the permitting and code enforcement process, that guidelines and procedures for building occupants/owners to use the right-of-way for such permitted displays are maintained in such a manner that will not restrict pedestrian movement.
- (c) Violation of any permit stipulations will be considered a zoning violation and shall be enforced with the same penalties and provisions stipulated in this article for other such offenses.

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(Code 1997, § 159.181; Ordinance 07-27, adopted 4/18/2007; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010)

§ 111-512. through § 111-530. (Reserved)

ARTICLE XIX AIRPORT OVERLAY DISTRICT

§ 111-531. Land use zoning regulations for Valley International Airport.

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

Airport means the Valley International Airport located in Harlingen, Texas.

Airport overlay zoning districts means the areas of land use within the controlled area of the airport and within the 65 and Greater LDN contours of the airport as established in the Federal Aviation Administration, FAR Part 150 Study and attached as Exhibit A to Ordinance 01-31.

Board of adjustment means the Harlingen Zoning Board of Adjustment as set out in this chapter.

Centerline means a line extending through the midpoint of each end of a runway.

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Elevation, airport, means the established elevation of the highest point on the usable landing area measured in feet from mean sea level which is 35 feet above mean sea level.

Hazard, airport, means a structure or object of natural growth that obstructs that air space required for the taking off, landing, and flight of aircraft or that interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.

Hazard area, airport, means any area of land or water upon which an airport hazard might be established if not prevented as provided in this article.

Landing area means the surface area of the airport used for the landing and taking off of aircraft.

Land use, compatible, means the use of land adjacent to the airport that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations, or the risk of personal injury or property damage created by the operations of the airport, including the taking off and landing of aircraft.

LDN. See *Yearly day-night average sound level*.

Noise level reduction (NLR) means the reduction of outside noise transmitted inside a structure achieved through the incorporation of noise attenuation into the design and construction of the structure.

Structure means an object, including a mobile object, constructed or installed by one (1) or more persons and includes, but is not limited to a building, tower, cranes, smokestacks, earth formation, and overhead transmission lines.

Tree means any object of natural growth.

Yearly day-night average sound level (LDN) means the 24-hour average sound level in decibels, for the period from 12:00 midnight to 12:00 midnight, obtained after the addition of 10 decibels to sound levels for the period between 12:00 midnight and 7:00 a.m. and between 10:00 p.m. and 12:00 midnight (local time) as averaged over a span of one (1) year. A mathematical definition of LDN can be found in Federal Aviation Regulation Part 150 on file in the department of planning and development of the City of Harlingen.

- (b) Governing authority; administration and enforcement. In accordance with Texas Local Government Code Ch. 241, the planning and zoning commission shall act as the airport zoning commission and the Harlingen City Commission shall act as the airport zoning board.

- (c) Administration and enforcement.

- (1) It shall be the duty of the director of planning and development and ~~chief building official~~ chief building official in conjunction with the director of aviation to administer and enforce the regulations prescribed herein. Applications for permits shall be made to the ~~chief building official~~ chief building official. Applications for variances shall be made to the director of planning and development and may be considered and granted or denied by the zoning board of adjustments.
- (2) The director of planning and development shall, when directed by the airport zoning board, initiate in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this chapter or of any order ruling made in connection with its administration or enforcement.

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- (d) Airport overlay zones established. The prevention of the establishment of incompatible land use on properties adjacent to the airport are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land. Therefore, for the purpose of regulating the development of noise sensitive land uses to promote compatibility between the airport and the surrounding land uses, to protect the airport from incompatible development and to promote the health, safety, and general welfare of property users, the controlled area of Valley International Airport is divided into three (3) airport overlay zoning districts. The three airport overlay zoning districts established herein shall be known as:

Abbreviated Designation	Zoning District Name	LDN Designation
AO-1	Airport Overlay District - 1	65 through 69 LDN contour
AO-2	Airport Overlay District - 2	70 through 74 LDN contour
AO-3	Airport Overlay District - 3	75 LDN and greater

- (e) Airport overlay zoning district map.

- (1) The boundaries of the airport overlay zoning districts set out herein are delineated upon the airport overlay zoning district maps of the city, said airport overlay zoning district map being adopted by reference and made a part of this chapter as fully as if the same were set forth herein in detail.
- (2) An official copy of the airport overlay zoning district map dated November 1992, reflecting the boundaries of the airport overlay zoning districts is hereby adopted; and the mayor and city secretary are authorized to sign and attest the map as the airport overlay zoning district map of the City of Harlingen, a copy of which be incorporated into the official zoning map of the city. Map copies shall be filed as follows:
 - a. One (1) copy shall be filed to permanent record as part of this chapter in the office of the city secretary.
 - b. One (1) copy shall be filed in the office of the director of planning and development.
 - c. One (1) copy shall be filed in the office of the airport manager.

- (f) Airport overlay zoning district boundaries.

- ~~(+)~~—The airport overlay zoning district boundary lines shown on the official airport overlay
- (1) zoning district map shall be located and delineated along contour lines established in the Federal Aviation Administration FAR Part 150 Study. Where uncertainty exists as to the boundaries of the airport overlay zoning districts as shown on the official maps, the following rules shall apply:
- a. Boundaries shall be scaled from the nearest physical feature shown on the map.

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- b. Boundaries may be scaled from the nearest platted lot line as shown on the map.
 - c. Distances not specifically indicated on the original airport overlay zoning district map shall be determined by a scaled measurement on the map.
- (2) Where physical features on the ground differ from the information shown on the official airport overlay zoning district map or when there arises a question as to how or where a parcel of property is zoned and such questions cannot be resolved by the application of subsection (g) of this section, the property shall be considered to be classified as the more restrictive airport overlay zoning district.
- (3) Where a parcel of land lies within more than one (1) airport overlay zoning district, the zone within which each portion of the property is located shall apply individually to each portion of the development.

(g) Use of land and buildings.

- (1) Within the airport overlay zoning districts as defined herein, no land shall hereafter be used and no structure or other object shall hereafter be erected, altered, converted, or modified other than for existing structures which have nonconforming status or for those compatible land uses permitted by underlying comprehensive zoning districts, as specified in the Harlingen Zoning Ordinance (No. 97-35), as amended. Additional land uses are prohibited in the airport overlay zoning districts, regardless of underlying zoning, as set forth in the following land use table:

Land Use Table Yearly Average Day-Night Sound Level (LDN) In Decibels			
Land Use	AO-1 (65-69 LDN)	AO-2 (70-74 LDN)	AO-3 (75 and up)
Residential Uses:			
One-family housing unit (detached)	No	No	No
One-family housing unit (attached)	No	No	No
Two-family housing unit	No	No	No
Mobile home	No	No	No
Mobile home park	No	No	No
Mobile home subdivision	No	No	No
Travel trailer park		No	No

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Recreation/Entertainment Uses:

Land Use Table Yearly Average Day-Night Sound Level (LDN) In Decibels			
Land Use	AO-1 (65-69 LDN)	AO-2 (70-74 LDN)	AO-3 (75 and up)
Amusement, commercial (indoor)		No	No
Amusement, commercial (outdoor)		No	No
Carnival or circus (temporary)		No	No
Country club (private)		No	No
Day camp for children		No	No
Playfield or stadium (public)		No	No
Theater or playhouse in building			No
Theater (drive-in)		No	No
Education and Institutional Uses:			
Art gallery or museum			No
Church or rectory		No	No
College or university		No	No
Convent or monastery		No	No
Community center (public)		No	No
Day care center	No	No	No

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Public or denominational day care	No	No	No
Family care facility for children	No	No	No
Group care facility for children	No	No	No
Fraternity, sorority, or membership association		No	No
Hospital acute care	No	No	No

Land Use Table Yearly Average Day-Night Sound Level (LDN) In Decibels			
Land Use	AO-1 (65-69 LDN)	AO-2 (70-74 LDN)	AO-3 (75 and up)
Hospital chronic care	No	No	No
Institution of religious, charitable or philanthropic nature	No	No	No
Halfway house for mentally retarded adults	No	No	No
Institution for alcoholic, narcotic, psychiatric patients	No	No	No
Mental health center or hospital	No	No	No
Library (public)	No	No	No
Nursing home or residence for aged	No	No	No
School, private,	No	No	No

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elementary or secondary			
School, public, or denominational	No	No	No

- (2) Where any use of prohibited land and buildings set forth in subsection (h)(1) of this section conflicts with any use of land and buildings set forth in zoning ordinance No. 97-35, as amended, as an allowed use on the zoning district map, this section shall apply.
- (3) Where the official airport overlay zoning district map indicates an area as being outside the limits of the City of Harlingen, the prohibited uses, as set forth in subsection (h)(1) of this section, shall apply as though the area is within the city and no structure or object shall be erected, altered, converted, or modified except to comply with uses not prohibited by this section.
- (4) Subsection (h) of this section does not apply to property within the official boundaries of the airport.
- (5) As an accessory use to an office, commercial or, industrial development located on a tract of land consisting of 20 or more acres in size, one (1) dwelling unit may be located on the site provided the property owner dedicates, in advance of receiving a building permit, an aviation clear zone easement to the city. The purpose of this easement shall be to establish a maximum height restriction on the use of property and to hold the public harmless for any damages caused by noise, vibration, fumes, dust, fuel, fuel particles or other effects that may be caused by the operation of aircraft landing at, taking off from, or operating on or at, public airport facilities.

(h) Additional land use regulations.

- (1) Within the City of Harlingen, all regulations in the zoning ordinance (No. 97-35), as amended, shall apply to the development of all property covered by the airport overlay zoning district map based on the underlying zoning of the property.
- (2) On property within the airport overlay zoning district map jurisdiction, but outside the city limits of the City of Harlingen, subsection (i)(1) of this section shall apply to the property to establish the prohibited uses, but no other provisions of the zoning ordinance (No. 97-35), as amended, shall apply to this property.
- (3) Notwithstanding any other provisions of this chapter or other chapter of the city of this Code, no use may be made of land, water, or structures within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others or result in glare in the eyes of pilots using the airport; impair visibility in the

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vicinity of the airport; create bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking off, or flight operations of aircraft utilizing the airport.

- (4) When a subdivision plat or building permit is required for any property within an airport overlay zoning district for Valley International Airport, the property owner shall dedicate an aviation hazard easement to the city over and across that property. This easement shall establish a height restriction on the use of the property and hold the public harmless from any damages caused by noise, vibration, fumes, dust, fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near Valley International Airport.

(i) Noise attenuation requirements.

- (1) Noise zones. For the purpose of this chapter, certain areas within the city boundaries are established as zones subject to significant noise from aircraft. These zones shall be known and designated 65 through 69 LDN and the 70 and greater LDN noise zones; both areas being shown on the airport overlay zoning district map.
- (2) A structure which is located partly within a noise zone and partly outside, or located partly within one (1) or more noise zones shall be considered to be entirely within the more restrictive of the noise zones within which it is located.

(j) Certification of plans.

- (1) The ~~chief building official~~chief building official shall not issue a building permit for any structure within the zones set forth in subsection (i) of this section unless the plans and specifications accompanying the application for said building permit have been certified by a registered professional engineer or registered professional architect in the State of Texas as meeting the noise level reduction (NLR) standards specified in subsection (k) of this section.
- (2) The registered professional architect or engineer must certify that said plans and specifications shall reduce the noise impact from outdoor to indoor noise level, at least the minimum specified in this division, using commonly accepted engineering and architectural acoustical practices.

(k) Noise level reduction (NLR) standards.

- (1) In the noise zones, whether inside or outside the limits of the city, allowed land uses shall meet minimum construction standards to achieve a minimum outdoor to indoor NLR as follows:
 - a. Airport noise level of 65 through 69 LDN must be reduced by a minimum of 25 decibels.

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- b. Airport noise level of 70 and greater LDN must be reduced by a minimum of 30 decibels.
- (2) The required minimum NLR applies to all portions of a structure where the public is received, office areas, public assembly rooms, sleeping areas, noise sensitive areas, or where the normal noise level is low.
- (l) Permits.
 - (1) No structure or tree shall be built or located in an airport overlay zoning district unless a permit is obtained.
 - (2) The ~~chief building official~~ chief building official shall not issue building or remodeling permits for any structure in an airport overlay zoning district unless the applicant fully complies with all provisions of this chapter.
 - (3) The environmental public health administrator shall not issue a permit for the installation of a water well and/or septic tank in an airport overlay zoning district unless the ~~chief building official~~ chief building official has stated that the permit applicant has complied with all provisions of this chapter.
 - (4) Each application for a permit shall indicate the purpose for which the permit is desired with sufficient details to determine whether the resulting use would conform to the regulations of this chapter. If such determination is found to be in compliance with this chapter, the permit may be granted. No permit inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with article XVI of this chapter.
- (m) Public improvements. The city shall withhold all public improvements including the maintenance of streets and the furnishings of water and sewer service unless the applicant for a building permit fully complies with all provisions of this chapter.
- (n) Nonconforming uses and structures. The regulations prescribed by this chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure not conforming to the regulations as of the effective date of this chapter or otherwise interfere with the continuance of any legal nonconforming use as set forth and governed by sections 111-357 and 111-358.
- (o) Marking and lighting. Notwithstanding subsection (n) of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the city manager, to indicate to the operators of aircraft in the vicinity of Valley International Airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Valley International Airport, City of Harlingen, Texas.
- (p) Appeals.

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(1) Any person aggrieved, or any taxpayer affected by any decision of the city staff made in administration of this chapter may appeal to the board of adjustment.

(2) All appeals hereunder must be taken within a reasonable time as provided by section 111-442(c).

(Code 1997, § 159.210; Ordinance 01-31, adopted 4/4/2001; Ordinance 08-29, adopted 4/2/2008)

§ 111-532. Height hazard regulations.

(a) Notification of FAA. Any person who proposes the following construction or alteration shall notify the Federal Aviation Administration (FAA) in accordance with 14 CFR 77 (FAR):

(1) Any construction or alteration of more than 200 feet in height above the ground level at its site; and

(2) Any construction or alteration of greater height than an imaginary surface extending outward and upward from an airport runway at a 100:1 slope for a horizontal distance of 20,000 feet from the nearest point of the nearest runway.

It is further declared that the prevention of the creation or establishment of hazards to air navigation; the elimination, removal, alteration or mitigation of hazards to air navigation; or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interest in land.

(b) Airport zones.

(1) In order to carry out the provisions of this section, there are hereby created and established certain zones which include all of the land lying beneath the approach surface area, transitional surfaces, horizontal surface area, and conical surfaces as they apply to Valley International Airport. Such zones are shown on the map located in this section of the article. An area located in the zone is considered to have restrictive height limitations as described herein.

(2) For all areas within the 135-foot elevation contour as identified on the map, any structure erected shall be restricted to height not to exceed the 50-foot limitation allowable for commercially zoned property and 30-foot for residentially zoned property. Height variances will not be allowed within this contour boundary. Wireless communications facilities (WCFs) will not be allowed to exceed these height limits within this contour boundary.

(3) For all areas within the 85-foot elevation contour as identified on the map, any structure erected shall be restricted to height not to exceed 20 feet at the edge of the airport boundary (unless a more restrictive aerial easement is in effect) and continuing in a straight line incline at the rate of one (1) foot for every 40 feet in distance to a height of 50 feet or elevation contour 135 feet, where the condition in subsection (b)(2) of this section shall commence. WCFs will not be allowed to exceed these height limits within this contour boundary.

(c) Airport height restriction map.

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- (1) The boundaries of the airport height restriction contours set out herein are delineated upon the airport height restriction map of the City of Harlingen, said map being adopted by reference and made a part of this chapter as fully as if the same were set forth herein in detail.
- (2) An official copy of the airport height restriction map, reflecting the boundaries of the height restrictions hereby adopted; and the mayor and city secretary are authorized to sign and attest the map as the Airport Height Restriction Map of the City of Harlingen, a copy of which is incorporated into the official zoning map of the city. Map copies shall be filed as follows:
 - a. One (1) copy shall be filed to permanent record as part of this chapter in the office of the city secretary.
 - b. One (1) copy shall be filed in the office of the director of planning and development.
 - c. One (1) copy shall be filed in the office of the airport manager.

(d) Conflicting regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this section and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitations or requirements shall govern and prevail.

(4)

(Code 1997, § 159.211; Ordinance 01-27, adopted 3/21/2001)

§ 111-533. through § 111-557. (Reserved)

ARTICLE XX

BED AND BREAKFAST ESTABLISHMENTS

§ 111-558. Bed and breakfast businesses in historically significant buildings.

The planning and zoning commission and city commission, through review and approval of a special use permit (SUP) as defined in this chapter herein, may allow for additional accessory social event type uses (weddings, receptions, and the like) in addition to the primary bed and breakfast use, subject to the following standards:

- (1) The building containing the subject bed and breakfast use must be of historical significance;
- (2) Off-street parking is available for the secondary social event type uses in accordance with the city's standard or as modified through the approval of the SUP;
- (3) Social events allowed through the approval of the SUP shall not exceed 40 attendees;

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- (4) Any kitchen must comply with the city's standard for commercial kitchens;
 - (5) Commercial water, sewer, and garbage collection fees will apply to the subject site;
 - (6) Compliance with the city's building and fire codes is required as applicable to the uses, occupancy, and/or condition of the subject buildings;
 - (7) Compliance with the Americans with Disabilities Act of 1990; and
 - (8) The SUP may also regulate, but is not limited to, the following: noise, frequency of events, hours of events, any other situation that may adversely affect the residential character of the surrounding neighborhood.
- (Code 1997, § 159.220; Ordinance 08-29, adopted 4/2/2008; Ordinance 08-32, adopted 4/16/2008; Ordinance 10-10, adopted 5/10/2010)

§ 111-559. through § 111-579. (Reserved)

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ARTICLE XXI ILLUSTRATIONS

§ 111-580. Appendix A: yard and lot illustrations.

- (a) A: lot depth.
- (b) B: lot width.
- (c) C: front yard.
- (d) D: side yard.
- (e) E: rear yard.

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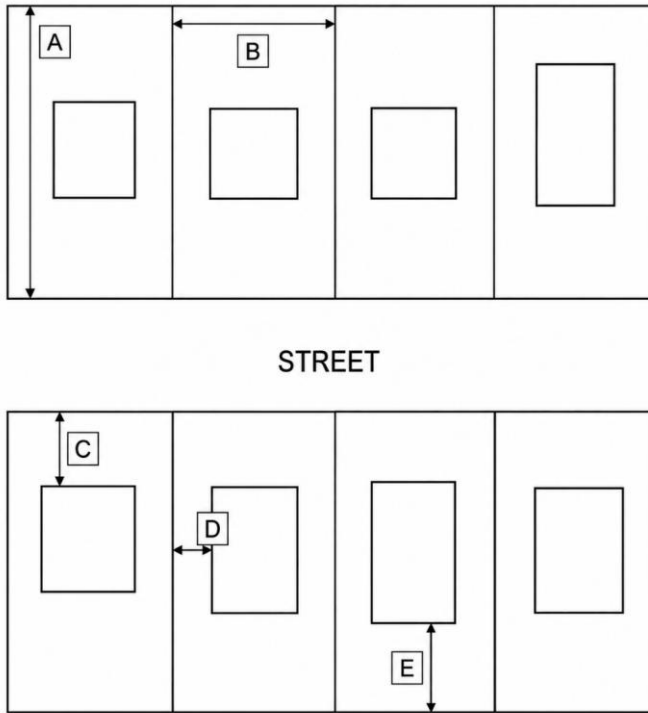
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(Code 1997, Ch. 159, app. A; Ordinance 01-16, adopted 2/21/2001)

§ 111-581. Appendix A: sight triangle.

A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

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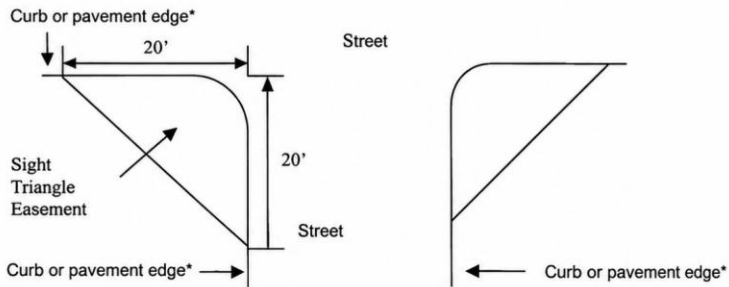
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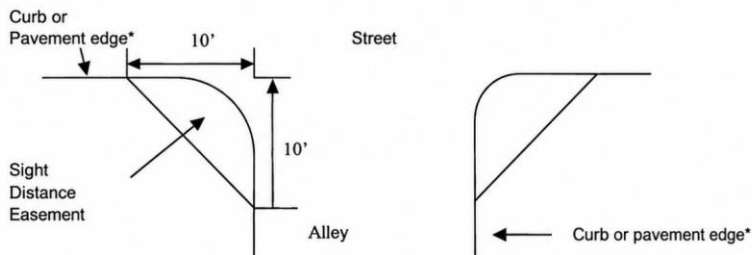
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Street Clip (Typical)



Alley Clip (Typical)



If a street is substandard when building permit is sought, the measurement will begin from what is to be the width of the road according to the city's adopted Major Thoroughfare Plan .

(Code 1997, Ch. 159, app. A; Ordinance 01-16, adopted 2/21/2001)

§ 111-582. Appendix B: parking aisle width chart.

- (a) A: Angle of parking in degrees.
- (b) B: Length of parking space in feet.

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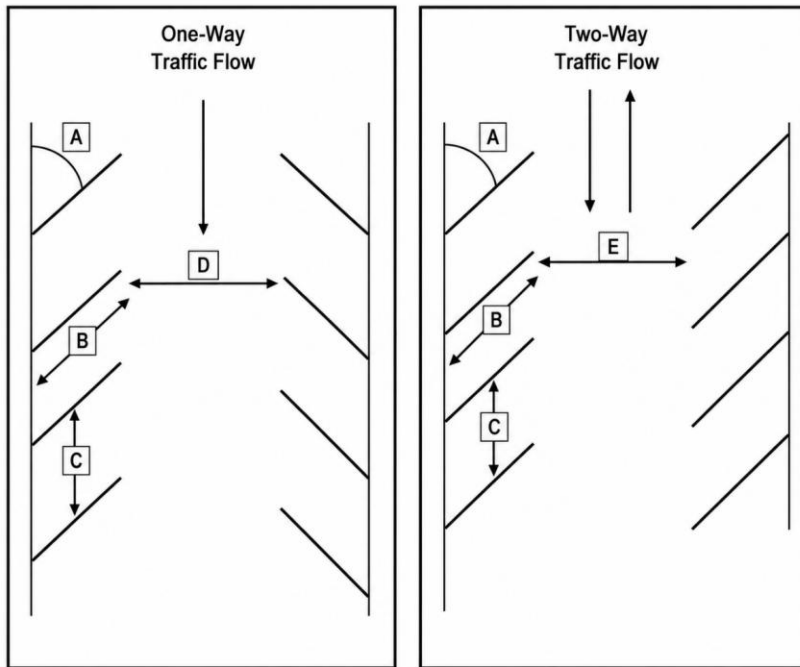
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- (c) C: Width of parking space in feet.
- (d) D: Width of parking aisle (one-way traffic).
- (e) E: Width of parking aisle (two-way traffic).



Angle of Parking in Degrees										
A	90	85	80	75	70	65	60	55	50	45
B	18'	20.9'	21.2'	21.6'	22'	22'	21.9'	21.8'	21.1'	18.6'
C	9'	9'	9'	9'	9'	9'	9'	9'	9'	9'
D	24'	21'	20'	19'	18'	17'	16'	15'	14'	13'
E	24'	22'	22'	22'	22'	22'	22'	22'	22'	22'

(Code 1997, Ch. 159, app. B; Ordinance 01-16, adopted 2/21/2001; Ordinance 2024-30 adopted 7/3/ 2024)

§ 111-583. Appendix B: calculation of handicapped spaces required.

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Total Parking Spaces Required or Provided in Lot	Minimum # of Handicap Spaces Required
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9

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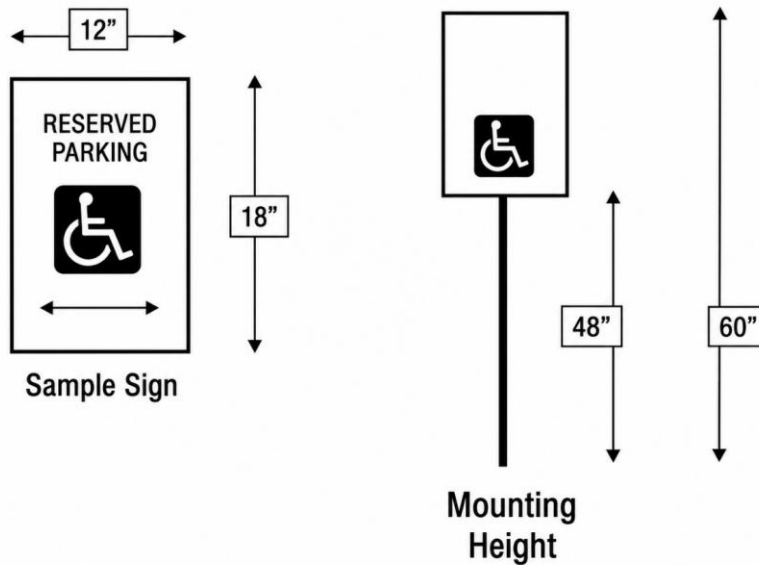
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Total Parking Spaces Required or Provided in Lot	Minimum # of Handicap Spaces Required
501 to 1,000	2% of Total
1,001 and over	20 + 1 for each 100 > 1,000

The parking space or area must be identified with signage designated by the State of Texas Department of Licensing and Regulation as follows:



(Code 1997, Ch. 159, app. B; Ordinance 01-16, adopted 2/21/2001)

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ARTICLE XXII. – HISTORIC PRESERVATION

DIVISION I. GENERAL PROVISIONS

Sec. 111-700. – Purpose.

Pursuant to the authority granted under Texas Local Government Code Chapter 211, the City Commission of Harlingen finds that the protection, preservation, and enhancement of historic landmarks and historic districts are matters of public necessity and serve an important public purpose. Harlingen's historic resources embody the distinctive patterns, architecture, culture, and craftsmanship that reflect the city's development and contribute to its identity, economic vitality, and quality of life.

It is therefore the policy of the City of Harlingen to identify, designate, and preserve historic resources, and to ensure their appropriate treatment in accordance with nationally accepted preservation standards, including the Secretary of the Interior's Standards for the Treatment of Historic Properties.

This Article is intended to:

- (a) Protect and preserve historic landmarks and districts that reflect Harlingen's architectural, archeological, cultural, and historic heritage;
- (b) Promote civic pride and strengthen community identity through the recognition of historic places;
- (c) Promote heritage-based economic development through the continued use, rehabilitation, and adaptive reuse of historic resources;
- (d) Support tourism and education by increasing public awareness of Harlingen's historic places and their significance;
- (e) Guide harmonious and compatible development that respects the character of historic areas;
- (f) Promote the most appropriate and economically beneficial use of historic properties;
- (g) Encourage investment in the stabilization, maintenance, and rehabilitation of historic properties through available incentives and technical assistance; and,
- (h) Integrate historic preservation into the City's comprehensive planning, land-use, and community development policies.

Sec. 111-701. – Authority.

This Article is adopted pursuant to the powers granted to the City of Harlingen as follows:

- (a) Texas Constitution, Article XI, Section 5, granting home-rule authority to adopt ordinances for the protection of public health, safety, and welfare, provided they are not inconsistent with state law.
- (b) The City of Harlingen Home-Rule Charter, authorizing the City to enact regulations necessary to preserve and protect the community's historic, cultural, architectural, and archaeological resources.
- (c) Texas Local Government Code Chapter 211 (Municipal Zoning Authority), including:
 - (1) §211.003(b), authorizing regulation of the construction, alteration, and demolition of buildings in areas of historical, cultural, or architectural significance;

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- (2) §211.004, authorizing zoning regulations to promote public health, safety, morals, and general welfare and to conserve the value of buildings;
 - (3) §§211.006, 211.007, prescribing notice and public hearing requirements for zoning actions;
 - (4) §211.012, authorizing enforcement and penalties; and
 - (5) §211.0165, establishing the requirements for the designation of local historic landmarks and local historic districts.
- (d) Texas Local Government Code Chapter 214 (Municipal Regulation of Structures), including:
- (1) §214.001 – authorizing regulation of substandard or dangerous structures;
 - (2) §214.00111 – authorizing the preservation of substandard historic buildings and enforcement of minimum maintenance standards.
- (e) Texas Government Code Chapter 3000, including:
- (1) §3000.002, limiting municipal authority over building materials and methods, while recognizing statutory exceptions applicable to designated historic properties, historic districts, and historic landmarks.

Sec. 111-702. – Applicability.

This Article applies to historic resources under the jurisdiction of the City of Harlingen as authorized by state law, including:

- (a) Properties designated by the City Commission as local historic landmarks or included within a local historic district pursuant to this Article;
- (b) Properties listed on the National Register of Historic Places, designated as Recorded Texas Historic Landmarks, or designated as State Antiquities Landmarks, which are expressly recognized under Texas Government Code §3000.002(c) as exempt from state building-material preemption;
- (c) Properties designated as local historic landmarks or included within a local historic district prior to April 1, 2019, for which municipal regulation of building materials is preserved under Texas Government Code §3000.002(c)(2);
- (d) Properties designated on or after April 1, 2019, for which the property owner has provided voluntary written consent to building-material regulation pursuant to Texas Government Code §3000.002(d);
- (e) Any property for which regulation of building materials or treatments is expressly permitted under Texas Government Code §3000.002(c), including regulation necessary to maintain the historic character of a structure or district.

Nothing in this Article shall be construed to prohibit or restrict the use of a building product or material otherwise authorized by a national model building code, except where expressly permitted by Texas Government Code §3000.002(c) or (d).

Sec. 111-703. – Relationship to Other Regulations.

This Article supplements the City’s zoning, building, and property maintenance regulations. In the event of a conflict, the more restrictive provision shall apply unless preempted by state or federal law, including Texas Government Code Chapter 3000 and Texas Local Government Code §211.0165. Nothing in this Article shall be construed to limit requirements imposed by state or federal historic preservation laws.

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Sec. 111-704. -Definitions.

- (a) Certificate of Appropriateness (COA) means a written approval issued by the Historic Preservation Council and/or Historic Preservation Officer authorizing work on a contributing structure as required by this Article.
- (b) Contributing resource means a building, structure, site, or object within a historic district that is at least fifty (50) years old, was substantially constructed within the district's period of significance, and retains a recognizable degree of integrity.
- (c) Demolition by neglect is the gradual deterioration of a historic property caused by failure to perform ordinary or minimum maintenance.
- (d) Historic district means an area which includes a grouping of two (2) or more historic properties, together with their accessory buildings, fences, and other appurtenances that are of historical, cultural, archaeological, or architectural importance, and that has received designation from the City of Harlingen as a unified district. A historic district may have contributing and non-contributing structures within its boundaries. A historic district is a local historic district under the Texas Local Government Code, Sec. 211.0165, as amended.
- (e) Historic landmark means a building, structure, object, site, or landmark, together with its accessory buildings, fences, and other appurtenances, of historical, cultural, archaeological, or architectural importance that has received designation from the City of Harlingen on its own and not as part of a historic district. It may or may not also be located within a historic district as part of a separate designation. A historic landmark is a local historic landmark under Texas Local Government Code, Sec. 211.0165, as amended.
- (f) Historic preservation means the identification, evaluation, recordation, documentation, protection, management, repairs, rehabilitation, restoration, stabilization, maintenance, and reconstruction of historic structures or property, or any one or more of the foregoing activities.
- (g) Historic Preservation Officer (HPO) means a designated city official, preferably meeting the Secretary of the Interior's Professional Qualification Standards, entrusted to administer this ordinance and oversee the City of Harlingen's preservation efforts.
- (h) Historic resource means a building, structure, object, or site that is 50 years old or has historical, cultural, archaeological, or architectural significance, either as an individual property or as part of a larger district.
- (i) Historic Resources Survey means a comprehensive survey involving the identification, research, and documentation of buildings, sites, and structures of any historic, cultural, archaeological, or architectural importance.
- (j) Integrity means the authenticity of a property's historic identity, evidenced by survival of physical characteristics that existed during the property's historic or prehistoric period.
- (k) Mothballing means the process of closing up a building temporarily to protect it from the weather and the elements, as well as to secure it from vandalism, in order to prevent long-term deterioration while the building is unoccupied.
- (l) National Register of Historic Places or National Register means the nation's official list of buildings, districts, and sites, including structures and objects, significant in American history and culture, architecture, archeology, and engineering, maintained by the National Park Service and administered on a state-wide basis by the Texas Historical Commission.
- (m) Non-contributing means a building, site, structure, or object within a historic district that was substantially constructed after the district's period of significance and is not an integral part of the historic, archaeological and architectural fabric of the district or the city, or was

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substantially constructed within the district's period of significance but does not retain a significant portion of its architectural or design integrity.

- (n) Recorded Texas Historic Landmark (RTHL) means a state designation for buildings important for their architectural and historical associations, which have retained a high degree of their original historic fabric, are at least fifty (50) years of age, and retain their original exterior appearance.
- (o) Secretary of the Interior's Standards for the Treatment of Historic Properties, or Secretary's Standards, means the standard established by the Secretary of the Interior for advising federal agencies on the preservation and rehabilitation of historic properties listed or eligible for listing on the National Register of Historic Places.
- (p) State Historic Preservation Office (SHPO) refers to the government agency responsible for administering each state's preservation laws as outlined in the National Historic Preservation Act. The SHPO for the state of Texas is the Texas Historical Commission.
- (q) State Antiquities Landmark (SAL) means a site of archeological or cultural value designated by the Texas Historical Commission, which receives legal protection under the Antiquities Code of Texas. For a building to be designated as a state archeological landmark, it must first be listed on the National Register of Historic Places.

Sec. 111-705 through 111-725. (Reserved).

DIVISION II. HISTORIC PRESERVATION ADMINISTRATION

Sec. 111-726. –Historic Preservation Council (HPC).

- (a) Purpose.
 - (1) The Harlingen Historic Preservation Council ("HPC") is hereby established as the official body for carrying out the purposes of this Article and exercises all duties delegated under the Texas Local Government Code Chapter 211 and this Article.
- (b) Membership.
 - (1) The HPC shall consist of six (6) members, each appointed by a member of the Harlingen City Commission.
 - (2) All members shall be residents of the City of Harlingen.
 - (3) To the extent practicable, the City Commission shall appoint members with a demonstrated interest, competence, or knowledge in historic preservation, drawn from the following categories:
 - i. Architect, planner, or representative of a design profession
 - ii. A historian or educator from a related discipline;
 - iii. Licensed real-estate broker;
 - iv. Archeologist, folklorist, or cultural anthropologist;
 - v. Owner of a designated historic landmark or historic property within a designated historic district; or
 - vi. Museum professional or preservation-related professional.
- (c) Terms and Vacancies.
 - (1) Members shall serve three-year terms that run concurrently with their appointing member of the City Commission.

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- (2) A member's term shall expire upon the expiration, resignation, or removal from office of the appointing City Commission member, provided that the member may continue to serve until reappointed or replaced by the succeeding City Commission member.
- (3) Members shall serve until a successor is appointed and qualified and may be reappointed to no more than two (2) consecutive terms. Vacancies shall be filled by the City Commission for the remainder of the unexpired term.
- (d) Officers.
 - (1) The HPC shall elect a Chair and Vice-Chair annually from among its members at the first regular meeting of the calendar year. No member may serve in the same office for more than two (2) consecutive terms.
 - (2) The Historic Preservation Officer shall serve as staff liaison and secretary to the HPC but shall not be a voting member.
- (e) Resignation.
 - (1) Resignations shall be submitted in writing to the Historic Preservation Officer.
- (f) Attendance.
 - (1) Any voting member who fails to attend three (3) meetings without good cause shall be deemed to have resigned.
- (g) Compensation.
 - (1) All HPC members shall serve without compensation for their service.
- (h) Quorum & Voting.
 - (1) A quorum consists of a simple majority of appointed members.
 - (2) The affirmative vote of a majority of members present shall be required to approve any action of the HPC, except where a greater vote is required by state law or this Article.
- (i) Meetings.
 - (1) *Regular Meetings.* The HPC shall meet at least six (6) times annually, or in accordance with the Texas Historical Commission's regulations for Certified Local Governments. All meetings shall comply with the Texas Open Meetings Act (Gov't Code Ch. 551). Regular meetings shall begin after 5:00 p.m. and be livestreamed on the same digital platforms used for City Commission meetings.
 - (2) *Special Meetings.* Special meetings may be called by the HPC Chair, the HPO, or at the request of two (2) HPC members. Special meetings shall comply with the Texas Open Meetings Act (Gov't Code Ch. 551) and shall be livestreamed in the same manner as regular meetings.
 - (3) *Emergency Meetings.* Emergency meetings may be called for a matter of urgent public necessity, as defined by the Texas Open Meetings Act, with at least one (1) hour notice posted notice.
- (j) Training.
 - (1) Regardless of profession, background, or experience, each member shall:
 - i. Complete an orientation provided by the HPO within two (2) months of appointment, including required Texas Open Meetings Act and Texas Open Records Act training;
 - ii. Attend at least one preservation-related training annually, as approved by the HPO.
 - (2) The HPO or designee shall document training compliance.
- (k) Conflict of interest.

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- (1) No member shall participate in a discussion, deliberation, or vote on any matter coming before the HPC, or exercise independent approval authority, where the member or the member's family has a financial, business, or property interest that may be affected by the action. A member is deemed to have a disqualifying interest where the effect on the member's interest is distinguishable from its effect on the general public.
 - (2) In such cases, the member shall recuse from participation on that item in accordance with Texas Local Government Code Chapter 171.
- (l) Minutes & Records.
- (1) The HPO shall ensure that minutes of all HPC meetings are prepared, approved by the HPC, and filed with the City Secretary.
 - (2) Minutes and other required documentation shall be transmitted to the Texas Historical Commission as necessary to maintain Certified Local Government status.
- (m) Rules of Procedure.
- (1) The HPC shall conduct its meetings in accordance with Robert's Rules of Order, Newly Revised, except where inconsistent with City ordinances or state law.
- (n) Powers and Duties.
- (1) The HPC shall have the following powers and duties, in addition to those otherwise provided in this Article or by law:
 - i. Adopt or amend internal rules and procedures necessary to conduct its business.
 - ii. Recommend to the City Commission the employment of professional consultants as necessary to carry out the purposes of this Article.
 - iii. Create committees and sub-committees from among its membership and delegate responsibilities as needed.
 - iv. Adopt and periodically review criteria for the designation of historic landmarks and historic districts.
 - v. Review and make recommendations to the City Commission on the designation of historic landmarks and the boundaries of historic districts, including the creation of new districts.
 - vi. Recommend and confer recognition upon owners of historic landmarks and properties within historic districts, including certificates, plaques, or markers.
 - vii. Review and recommend to the City Commission and other applicable boards and commissions proposed amendments to the zoning ordinance, building code, comprehensive plan, or other adopted policies that may affect historic resources.
 - viii. Develop, prepare, and adopt specific standards and guidelines for use in the review of all Certificate of Appropriateness applications;
 - ix. Review and take action on Certificate of Appropriateness applications for compliance with adopted design standards and guidelines, including appeals on actions taken by the Historic Preservation Officer via administrative review;
 - x. Periodically review and update guidelines or standards to be used in determination of whether to grant or deny Certificates of Appropriateness for proposed alterations to the exterior of a historic resource;
 - xi. Review and take action on all city preservation-related incentive program applications involving work on historic resources for compliance with adopted design standards and guidelines pursuant to this Article;

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- xii. Implement and maintain a system of survey and inventory of the city's significant historical, architectural, archeological, and cultural resources. Such information shall be maintained securely and made accessible to the public and should be updated at least every ten (10) years;
- xiii. Prepare and maintain a citywide preservation plan, which should be updated at least every ten (10) years, following completion of the decennial historic resources survey update;
- xiv. Monitor and report to the Texas Historical Commission all actions affecting any Recorded Texas Historical Landmark, State Antiquities Landmark, National Register property, and any other designated property, as deemed necessary;
- xv. Review and make comments to the Texas Historical Commission concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;
- xvi. Provide comment to the Texas Historical Commission, the Cameron County Historical Commission, and/or any other preservation-related entity on any federal undertakings (projects utilizing federal funds or requiring a federal permit) pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended;
- xvii. Accept on behalf of the city any grants, funds, or donations of preservation easements and/or development rights, as well as any other gift of value for the purpose of historic preservation, subject to the approval of the City Commission;
- xviii. Make recommendations to the City Commission concerning the acquisition of historic properties endangered by demolition and where private preservation is not feasible;
- xix. Recommend approval of the designation of properties as historic landmarks and the inclusion of properties in a historic district without property owner consent pursuant to Texas Local Government Code, Section 211.0165(a-1);
- xx. Make recommendations to the City Commission concerning the utilization of local, state, federal, or private funds to promote the preservation of historic resources within the city;
- xxi. Propose incentive programs for preservation, such as grants and tax abatement, to the City Commission and administer such programs at the will of the City Commission;
- xxii. Prepare and submit annually to the City Commission a report summarizing expenditures, goals, and objectives, as well as an account of all work completed during the previous year, as well as anticipated budgetary requests;
- xxiii. Increase public awareness of the value of historic, architectural, archeological, and cultural preservation by developing and participating in public education programs;
- xxiv. Perform any task otherwise authorized by this Article.

Sec. 111-727. – Historic Preservation Officer (HPO).

(a) Purpose.

- (1) There is hereby created the position of Historic Preservation Officer (HPO), responsible for administering this Article, coordinating the City's historic preservation

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activities, and serving as the City's liaison to local, state, and federal preservation entities, including the Texas Historical Commission for Certified Local Government program purposes.

(b) Appointment.

- (1) The City Manager, or designee, shall appoint a qualified staff member, preferably one who meets the Secretary of the Interior's professional qualification standards, to serve as HPO.

(c) Powers and Duties.

- (1) The HPO shall have the following powers and duties:

- i. Administer this Article and advise the HPC on matters submitted to it.
- ii. Maintain and hold open for public inspection all documents and records pertaining to the provisions of this ordinance.
- iii. Set deadlines for submittals to the HPC in order to assure adequate staff review time and proper notification of the HPC and the general public.
- iv. Receive and review all applications pursuant to this ordinance to ensure their completeness.
- v. Review and forward with any recommendations all applications for Certificates of Appropriateness subject to review by the HPC pursuant to this ordinance.
- vi. Administratively review and take action on Certificate of Appropriateness applications subject to administrative review pursuant to this ordinance, and grant or deny the same in accordance with the provisions of this ordinance and for any other action which the HPC has oversight under the delegation of duties or otherwise.
- vii. Ensure proper posting and noticing of all HPC meetings, schedule applications for HPC review, create meeting agendas, provide packets to its members prior to meetings, record meeting minutes, and facilitate all HPC meetings.
- viii. Review and help coordinate the city's historic preservation activities with those of local, state, and federal agencies, as well as other municipal departments and the general public;
- ix. Manage reporting requirements to monitor and maintain Certified Local Government status;
- x. Submit to the Texas Historical Commission, county authorities, and any other appropriate local, state, or federal agency a list or inventory of designated historic resources;
- xi. Monitor and report to the HPC all actions affecting any locally designated landmark, Recorded Texas Historic Landmark, State Antiquities Landmark, and National Register property, as deemed necessary.
- xii. Assist in developing community outreach programs to support preservation goals;
- xiii. Help maintain and update historic resource inventories, as needed;
- xiv. Prepare, amend, and update the city's preservation plan;
- xv. Perform any task otherwise authorized by this ordinance.

Sec. 111-728. – Preservation Plan

(a) Purpose.

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- (1) The preservation plan shall be the guiding policy document for the city's historic preservation efforts and related activities. The plan elaborates upon and works toward the goals and objectives identified in this ordinance. The plan shall:
 - i. Identify the city's most pressing preservation challenges and advise the best course of action through specific recommendations.
 - ii. Develop a list of potential historic resources and topics that should be targeted for designation with further historic research, restoration, or property owner interest; and
 - iii. Develop a strategic framework that includes the goals and objectives of the historic preservation program and seeks and integrates community feedback.
- (b) Authorship.
 - (1) The HPO or designee, and/or a contracted professional, shall author the preservation plan with input and assistance from the HPC.
- (c) Review and recommendation.
 - (1) The HPC shall review the preservation plan and make a recommendation to City Commission for approval.
- (d) Adoption.
 - (1) The City Commission shall adopt the preservation plan by resolution.
- (e) Amendments.
 - (1) The preservation plan may be periodically amended to best reflect the current preservation priorities of the city and shall undergo a formal review every ten (10) years.

Sec. 111-729. – Historic Resources Survey

- (a) Purpose.
 - (1) A Historic Resources Survey aims to identify and gather information on historic buildings, structures, objects, and sites within the City of Harlingen, their present conditions, and their status or potential for designation. A historic resources survey should be updated at least once every ten (10) years.
- (b) Survey data.
 - (1) Surveys may vary in scope and detail; however, all surveys should include, at a minimum, the following information for all properties within the survey:
 - i. Location of the property.
 - ii. Photographs of the property (historic and current).
 - iii. Date of construction or approximate date of construction.
 - iv. Architectural style of the structure, including the name of architect or firm, if possible.
 - v. Defining architectural details, including their materials, color, and condition.
 - vi. Accessory structures and landscape features.
- (c) Resource category and integrity evaluation.
 - (1) After information for the Historic Resources Survey is compiled, the Commission shall review the properties surveyed to determine:
 - i. If the resources are "historic" or "non-historic," based on the age of the structure and its historical, architectural, or cultural significance.
 - ii. Whether the properties would be classified as contributing, compatible, or non-contributing to the surveyed area or the overall history and character of the city or other jurisdiction, should the area be designated as a historic district.

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- iii. To what extent each structure retains its key, character-defining features.
- iv. A Historic Resources Survey map showing the location of all potential contributing, compatible, and non-contributing structures should be included with the survey.

(d) Approval.

- (1) The HPC shall approve the results of any Historic Resources Survey completed within the city. Approval of a survey shall not establish any additional restrictions upon the properties within the survey, nor shall the structure categorization make any property within the survey eligible for any potential historic tax exemptions, until is designated as a historic landmark or district.

(e) Inventory.

- (1) The HPO shall maintain an inventory of all designated and potential historic landmarks and districts, as identified in the Historic Resources Survey. The inventory should be periodically updated to reflect any new Historic Resources Survey data.

Sec. 111-730 through 111-750. (Reserved).

DIVISION III. DESIGNATION OF LOCAL HISTORIC LANDMARKS

Sec. 111-751. – Purpose.

The purpose of designating local historic landmarks is to recognize and protect individual properties of historical, cultural, architectural, or archeological significance; to ensure their protection from inappropriate alterations or demolition; to promote awareness and appreciation of Harlingen's heritage; and to enhance civic pride, cultural identity, and economic vitality through preservation.

Sec. 111-752. – Criteria for Local Historic Landmark Designation.

(a) Eligibility. A property or resource may be designated as a local historic landmark if it meets the following:

- (1) Is at least fifty (50) years old,
- (2) Retains a recognizable degree of its historic integrity, and
- (3) Substantially meets at least two (2) of the following criteria:
 - i. Significance in history, architecture, archeology, or culture.
 - ii. Association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.
 - iii. Work of a master designer, builder, or craftsman.
 - iv. Distinctive characteristics of a type, period, or method of construction.
 - v. Established or familiar visual feature of the city.
 - vi. Association with a person who significantly contributed to the culture and development of the City of Harlingen, the Rio Grande Valley, or history more broadly.
 - vii. Archeological value, having yielded or likely to yield information important to the prehistory or history of the City of Harlingen.
 - viii. Cultural landscape associated with a historic event, activity, or person exhibiting other cultural or aesthetic values.

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- ix. Is a natural history resource of rare, significant, and/or outstanding geological or biological value to the city or region.
 - x. Possesses a unique location, physical characteristic, or other significant feature that contributes to the character, image, or cultural identity of the city, a neighborhood, or the community at large.
- (b) Automatic Eligibility.
- (1) Properties designated as Recorded Texas Historic Landmark (RTHL), State Antiquities Landmark (SAL), or National Register of Historic Places (NRHP), or identified as a contributing resource in an adopted historic resources survey, are automatically eligible for local designation but must complete the designation process.

Sec. 111-753. – Initiation of Applications.

- (a) A designation application may be initiated by any of the following:
- (1) The property owner(s);
 - (2) The Historic Preservation Officer (HPO);
 - (3) The Historic Preservation Council (HPC);
 - (4) The City Commission; or
 - (5) Any other person or organization with written consent of the property owner.
- (b) A designation request made by anyone other than the property owner shall include written owner consent, except where the City initiates designation under Texas Local Government Code §211.0165.

Sec. 111-754. – Applications Requirements.

- (a) Applications shall be submitted to the HPO on forms provided by the City. A complete application shall include:
- (1) Applicant and property owner information;
 - (2) Legal description and physical address of the property;
 - (3) Owner signature(s) or authorized agent signature;
 - (4) Site plan showing all buildings, structures, and objects on the property;
 - (5) Current photographs of the property and its features;
 - (6) Historic information, including:
 - i. Narrative history
 - ii. Historic photographs, if available
 - iii. Architectural description.
 - iv. Statement of significance addressing the criteria in Sec. 111-752; and
 - v. Any additional information requested by the HPO, HPC, or Planning and Zoning (P&Z) Commission necessary to complete the evaluation.
- (b) Applications that do not contain all required information may be deemed incomplete and returned by the HPO.

Sec. 111-755. – Procedures for Local Historic Landmark Designation.

- (a) HPO Completeness Review.
- (1) Upon receipt of an application, the Historic Preservation Officer (HPO) shall review the submittal for completeness.
 - (2) When complete, the HPO shall:
 - i. Schedule the application for the next available Historic Preservation Council (HPC) meeting.
 - ii. Initiate interim protection for the property under this Article.
- (b) Required Notice and Historic Designation Impact Statement.
- (1) At least 15 days before the HPC public hearing, the HPO shall provide written notice to:
 - i. The property owner(s);

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- ii. All owners of property within 200 feet of the subject property; and
- (2) The notice shall include a Historic Designation Impact Statement, as required by Texas Local Government Code §211.0165, containing:
 - i. Applicable regulations after designation;
 - ii. The designation process;
 - iii. Available tax incentives; and
 - iv. Available rehabilitation or repair programs.
- (3) Notice may be sent by regular or certified mail.
- (c) Interim Protection During Review.
 - (1) Beginning on the date the application is deemed complete, the property is subject to all requirements of this Article, including COA requirements, demolition review, minimum maintenance, and penalties, until final City Commission action, not to exceed 180 days.
- (d) HPC Public Hearing and Recommendation.
 - (1) The HPC shall hold a public hearing to consider the application, at which time the applicant, property owners, interested parties, and technical experts may present evidence, testimony or documentation.
 - (2) The HPC shall vote to recommend approval or denial, stating findings based on the designation criteria.
 - (3) The HPO shall forward the HPC's written recommendation and findings to the Planning and Zoning (P&Z) Commission within three (3) business days.
- (e) Planning and Zoning Commission Public Hearing and Recommendation.
 - (1) The P&Z Commission shall conduct a public hearing in accordance with zoning notice requirements under Chapter 111, Article II.
 - (2) After the hearing, the P&Z Commission shall recommend approval or denial of the designation.
 - (3) The ~~Planning and Development Director~~Planning and development director~~Planning and development director~~ shall forward the P&Z recommendation to the City Commission within ten (10) days of the hearing.
- (f) City Commission Public Hearing and Final Decision.
 - (1) The City Commission shall schedule a public hearing within fourteen (14) days of receiving the P&Z recommendation.
 - (2) The City Commission shall base its decision on the record established before the HPC and the P&Z Commission.
- (g) Owner Consent Requirement.
 - (1) If the owner consents, a simple majority vote is required.
 - (2) If the owner does not consent, designation requires a 3/4 supermajority vote of:
 - i. The City Commission; and
 - ii. The Historic Preservation Council (as the designated commission under §211.0165).
 - (3) Upon approval, the designation takes effect immediately.
- (h) Appeals.
 - (1) Any person aggrieved by an HPC decision may appeal in writing to the City Commission within seven (7) days of the HPC's action. The City Commission shall hear the appeal at the next available meeting and may affirm, modify, or reverse the HPC decision.

Sec. 111-756. Recordation and Effect of Local Historic Landmark Designation

- (a) Upon approval by the City Commission, the HPO shall:
 - (1) Record the historic landmark designation with the Cameron County Clerk's Office, Cameron County Tax Office, and the Cameron County Appraisal District.
 - (2) Request for the city's official zoning map to be updated to reflect the Historic (H) Overlay.
 - (3) Notify property owners of the approval of the designation by certified or regular mail.

Sec. 111-757. Amendment to Local Historic Landmark Designation

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The HPO or HPC may initiate amendments to a historic landmark with approval from the City Commission. The process for an amendment shall follow the same procedure as that for creating a historic landmark.

Sec. 111-758. Removal of Local Historic Landmark Designation

(a) Purpose.

- (1) This section establishes the criteria and procedures for removing a local historic landmark designation. Removal shall occur only when the property no longer meets the standards for designation or was designated in error.

(b) Criteria for Removal.

- (1) A historic landmark may be de-designated if one of the following conditions is met:

- i. Loss of Integrity Due to Involuntary Destruction. The landmark has been destroyed or damaged beyond repair by fire, explosion, natural disaster, or other act of God, and reconstruction on-site is not feasible or would not be compatible with the historic character of the area.
- ii. Error in Designation. The property was designated in error or is demonstrated, through new information or analysis, not to possess the historical, architectural, archeological, or cultural significance originally attributed to it.

(c) Initiation of Removal.

- (1) A request for removal of designation may be initiated by:

- i. The property owner;
- ii. The Historic Preservation Officer (HPO);
- iii. The Historic Preservation Council (HPC); or
- iv. The City Commission.

(d) Petition Requirements.

- (1) A petition for removal submitted by a property owner shall:

- i. Be in writing and filed with the HPO;
- ii. Identify the specific criterion for removal under subsection (b); and
- iii. Include supporting documentation demonstrating why the landmark no longer qualifies.

(e) Procedure.

- (1) The process for removing a landmark designation shall follow the same procedural steps required for landmark designation, including:

- i. HPO completeness review;
- ii. Notice and public hearing before the HPC;
- iii. Recommendation from the Planning and Zoning Commission; and
- iv. Final decision by the City Commission pursuant to Texas Local Government Code Chapter 211.

(f) Protection During Review.

- (1) A landmark proposed for removal shall remain fully subject to all requirements of this Article, including Certificates of Appropriateness, minimum maintenance standards, demolition review, and penalties, until the City Commission issues a final decision.

(g) Recordation.

- (1) Upon removal of a landmark designation, the HPO shall:

- i. Notify the Planning and Zoning Commission of the change.
- ii. Record the action with the Cameron County Clerk; and

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- iii. Notify the Cameron County Tax Office and Cameron County Appraisal District

Sec. 111-759 through 111-779. (Reserved).

DIVISION IV. DESIGNATION OF LOCAL HISTORIC DISTRICTS

Sec. 111-780. – Purpose.

The purpose of designating local historic districts is to recognize and protect areas that collectively reflect Harlingen's historic, cultural, architectural, and archeological heritage; to safeguard neighborhood identity; and to promote investment, tourism, and community pride.

Sec. 111-781. – Criteria for Local Historic District Designation.

- (a) Eligibility. An area may be designated as a local historic district if it meets the following:
 - (1) It contains two (2) or more properties (sites, structures, buildings, or objects);
 - (2) A substantial number of properties are at least fifty (50) years old;
 - (3) The area, as a whole, retains a recognizable degree of historic integrity in setting, design, materials, workmanship, feeling, and association; and
 - (4) The district substantially meets at least two (2) of the following criteria:
 - i. Represents a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development;
 - ii. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
 - iii. Reflects the work of one or more master designers, builders, or craftspeople, or a notable architectural style or method of construction;
 - iv. Embodies distinctive characteristics of a type, period, or method of construction, or represents an intact example of a built environment from a particular era;
 - v. Contains resources that form an established and familiar visual feature of the city;
 - vi. Is associated with persons or groups that significantly contributed to the culture and development of the City of Harlingen, the Rio Grande Valley, or history more broadly;
 - vii. Contains resources with archeological value, having yielded or likely to yield information important to the prehistory or history of the City of Harlingen;
 - viii. Includes cultural landscapes or patterns of development associated with historic events, activities, or persons that exhibit cultural or aesthetic values; or
 - ix. Possesses a cohesive character, physical features, or development pattern that contributes to the identity and sense of place of the city or a neighborhood.
- (b) Contributing and Noncontributing Resources.
 - (1) A local historic district may include contributing, compatible, and noncontributing properties. Contributing status shall be determined in accordance with the adopted historic resources survey or as part of the district designation process.
- (c) Automatic Eligibility.
 - (1) Areas listed in the National Register of Historic Places (NRHP) as historic districts, or identified in an adopted historic resources survey as potential local historic districts, are

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automatically eligible for local designation but must complete the designation process in this Division.

Sec. 111-782. – Initiation of Historic District Applications.

- (a) A local historic district designation application may be initiated by:
 - a. The owner(s) of property within the proposed district;
 - b. The Historic Preservation Officer (HPO);
 - c. The Historic Preservation Council (HPC);
 - d. The City Commission; or
- (b) For applications initiated by persons or entities other than the City, the application shall include signatures representing at least twenty percent (20%) of the property owners within the proposed district boundaries, as determined by the most recent approved municipal tax roll.
- (c) A designation request made by anyone other than the property owner of a specific parcel shall be subject to the owner's consent and supermajority requirements in Texas Local Government Code §211.0165.

Sec. 111-783. – Application Requirements for Historic District Designation.

- (a) Applications shall be submitted to the HPO on forms provided by the City.
- (b) A complete application shall include:
 - (1) Applicant information and contact information for at least one property owner within the proposed district.
 - (2) A map and legal description of the proposed district boundaries.
 - (3) A list of all parcels and property owners within the proposed district, as shown on the most recent tax roll.
 - (4) Signatures of property owners representing at least twenty percent (20%) of the parcels within the proposed district, or documentation of City-initiated designation.
- (c) A district narrative, including:
 - (1) Historic context and development history;
 - (2) Statement of significance addressing the criteria in Sec. 111-781;
 - (3) Definition of the period of significance; and
 - (4) Description of character-defining features and development patterns.
- (d) Photographic documentation of representative properties and streetscapes;
- (e) A preliminary contributing/noncontributing list or reference to an adopted historic resources survey;
- (f) Any additional information requested by the HPO, HPC, or P&Z Commission necessary to complete the evaluation.
- (g) Applications that do not contain all required information may be deemed incomplete and returned by the HPO.

Sec. 111-784. – Procedures for Local Historic District Designation.

- (a) HPO Completeness Review.
 - (1) Upon receipt of an application, the HPO shall review the submittal for completeness.
 - (2) When complete, the HPO shall:
 - i. Schedule the application for the next available HPC meeting; and
 - ii. Initiate interim protection for all properties within the proposed district under this Article.

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(b) Required Notice and Historic Designation Impact Statement.

(1) At least fourteen (14) days before the initial HPC public hearing, the HPO shall provide written notice to:

- i. All property owners within the proposed district boundaries; and
- ii. All property owners within two hundred feet (200') of the proposed district boundaries.
- iii. The notice shall include a Historic Designation Impact Statement as required by Texas Local Government Code §211.0165, including:
 1. Regulations that may apply after designation;
 2. Procedures for designation;
 3. Available tax incentives; and
 4. Available rehabilitation or repair programs.

(2) Notice may be sent by regular or certified mail.

(c) Interim Protection During Review.

(1) Beginning on the date the application is deemed complete, all properties within the proposed district are subject to the requirements of this Article, including COA requirements, demolition review, minimum maintenance, and penalties, until final City Commission action, not to exceed 180 days.

(d) HPC Public Hearing and Recommendation.

- (1) The HPC shall hold a public hearing to consider the proposed district. The applicant, property owners, interested parties, and technical experts may present evidence, testimony, or documentation.
- (2) The HPC shall evaluate the application against the criteria in Sec. 111-781 and shall vote to recommend approval or denial, stating findings of fact.
- (3) The HPO shall forward the HPC's written recommendation and findings to the P&Z Commission within three (3) business days.

(e) Planning and Zoning Commission Public Hearing and Recommendation.

- (1) The P&Z Commission shall conduct a public hearing in accordance with zoning notice requirements under Chapter 111, Article II.
- (2) After the hearing, the P&Z Commission shall recommend approval or denial of the proposed district.
- (3) The ~~Planning and Development Director~~ Planning and development director ~~Planning and development director~~ shall forward the P&Z recommendation to the City Commission within ten (10) days of the hearing.

(f) City Commission Public Hearing and Final Decision.

- (1) The City Commission shall schedule a public hearing within fourteen (14) days of receiving the P&Z recommendation.
- (2) The City Commission shall base its decision on the record established before the HPC and the P&Z Commission.

(g) Owner Consent and Supermajority Requirements.

- (1) For each property within the proposed district, designation shall follow Texas Local Government Code §211.0165:
 - i. If the property owner consents in writing to inclusion in the district, a simple majority vote of the City Commission is sufficient;
 - ii. If the property owner does not consent, inclusion of that property within the district requires a three-fourths (3/4) supermajority vote of:

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1. The City Commission; and
 2. The Historic Preservation Council, as the commission designated under §211.0165(a-1).
- (2) Properties owned by organizations that qualify as religious organizations under Section 11.20, Tax Code, may be included only with the organization's consent.
- (3) Upon approval, the district designation and inclusion of each property takes effect immediately.
- (h) Appeals.
- (1) Any person aggrieved by an HPC recommendation may appeal in writing to the City Commission within seven (7) days of the HPC action.
 - (2) The appeal shall be heard at the next available City Commission meeting. The City Commission may affirm, modify, or reverse the HPC recommendation, subject to the procedures and owner-consent requirements in this section.

Sec. 111-785. – Recordation and Effect of Local Historic District Designation.

- (a) Upon City Commission approval of a local historic district, the HPO shall:
- (1) Record the district designation and legal description with the Cameron County Clerk's Office, Cameron County Tax Office, and Cameron County Appraisal District;
 - (2) Request that the city's official zoning map be updated to apply the Historic (H) Overlay to all properties within the district boundaries; and
 - (3) Notify all property owners within the district by certified or regular mail.
- (b) From the effective date of designation, all properties within the district are subject to the requirements of this Article, including Certificates of Appropriateness, design standards, demolition review, minimum maintenance, and enforcement provisions.

Sec. 111-786. – Amendment to Local Historic District Designation.

- (a) The HPO, HPC, or City Commission may initiate amendments to the boundaries or classification of properties within a local historic district.
- (b) Amendments shall follow the same procedures required for designation of a local historic district, including notice, hearings, and owner consent under Texas Local Government Code §211.0165, as applicable.

Sec. 111-787. – Removal of Local Historic District Designation.

- (a) Purpose.
- (1) This section establishes the criteria and procedures for removing or substantially altering a local historic district designation. Removal shall occur only when the district no longer meets the standards for designation or was designated in error.
- (c) Criteria for Removal.
- (1) A local historic district may be de-designated, in whole or in part, only if:
 - i. A substantial number of contributing properties have been involuntarily destroyed by fire, explosion, natural disaster, or other act of God, such that the district no longer retains sufficient integrity to convey its significance; or
 - ii. New information or analysis demonstrates that the district was designated in error and does not possess the historical, architectural, archeological, or cultural significance originally attributed to it.
- (d) Initiation of Removal.

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- (1) A request for district removal or boundary reduction may be initiated by:
 - i. A property owner within the district;
 - ii. The HPO;
 - iii. The HPC; or
 - iv. The City Commission.
- (e) Petition Requirements.
 - (1) A petition for removal submitted by a property owner shall:
 - i. Be in writing and filed with the HPO;
 - ii. Identify the specific criterion for removal under subsection (b); and
 - iii. Include supporting documentation demonstrating why the district, or the portion proposed for removal, no longer qualifies.
- (f) Procedure.
 - (1) The process for removing a district designation, or a portion thereof, shall follow the same procedural steps required for historic district designation, including:
 - i. HPO completeness review;
 - ii. Notice and public hearing before the HPC;
 - iii. Recommendation from the P&Z Commission; and
 - iv. Final decision by the City Commission pursuant to Texas Local Government Code Chapter 211 and §211.0165, as applicable.
- (g) Protection During Review.
 - (1) A local historic district proposed for removal shall remain fully subject to all requirements of this Article, including Certificates of Appropriateness, minimum maintenance standards, demolition review, and penalties, until the City Commission issues a final decision.
- (h) Recordation.
 - (1) Upon removal or modification of a district designation, the HPO shall:
 - i. Record the action with the Cameron County Clerk;
 - ii. Notify the Cameron County Tax Office and Cameron County Appraisal District; and
 - iii. Request appropriate updates to the city's official zoning map and records.

Sec. 111-788 through 111-808. (Reserved).

DIVISION V. HISTORIC OVERLAY (H)

Sec. 111-809. – Purpose.

The Historic Overlay (H) is established as a zoning mechanism to safeguard the character, appearance, and development patterns of historically, culturally, or architecturally significant properties and areas. The H-Overlay applies additional review standards to ensure that alterations, new construction, or demolition within designated areas support the preservation goals of this Article while maintaining the underlying base zoning district.

Sec. 111-810 – Establishment and Amendment of Historic Overlay Districts.

- (a) Authority.
 - (1) An H-Overlay may be established, expanded, amended, or removed only through a Zoning Map Amendment in accordance with this Article and Texas Local Government Code §211.006.
- (b) Relationship to Base Zoning.

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- (1) The H-Overlay does not modify the permitted uses, density, or development rights of the underlying base zoning district unless expressly stated in the adopting ordinance.
- (c) Applicability of H-Overlay.
 - (1) The H-Overlay may be applied to:
 - i. A designated local historic landmark; or
 - ii. A designated local historic district containing multiple properties.
- (d) Prerequisite to Mapping.
 - (1) The H-Overlay may be applied only after the City Commission has approved:
 - i. A local historic landmark designation; or
 - ii. A local historic district designation, as provided in Divisions 3 and 4 of this Article.
- (e) Initiation.
 - (1) An H-Overlay zoning map amendment may be initiated by:
 - i. The Historic Preservation Council (HPC);
 - ii. The Historic Preservation Officer (HPO);
 - iii. The Planning and Zoning Commission; or
 - iv. The City Commission.

Sec. 111-811. – Historic Overlay Districts Established.

- (a) All Historic Overlay districts adopted by ordinance are hereby incorporated by reference and shown on the Official Zoning Map of the City of Harlingen.
- (b) Each H-Overlay includes all land within the boundaries depicted on the Official Zoning Map, as may be amended.

Sec. 111-812. – Applicability and Enforcement.

- (a) Applicability.
 - (1) All properties within an H-Overlay are subject to the requirements of this Article, including:
 - i. Design review by the Historic Preservation Council;
 - ii. Certificates of Appropriateness for exterior alterations, new construction, relocation, or demolition, as required in Division XX; and
 - iii. Compliance with the design standards or guidelines adopted for the overlay or the designated landmark/district.
- (b) Effect of Overlay.
 - (1) The H-Overlay is a mapping tool and does not itself constitute historic designation. Historic landmark or historic district designation must occur independently under Divisions 3 and 4.
- (c) Violations.
 - (1) Failure to obtain required approvals or to comply with H-Overlay regulations constitutes a zoning violation and is subject to penalties and enforcement actions provided in this Article.
- (d) Amendment or Removal.
 - (1) An H-Overlay may be amended or removed only through a Zoning Map Amendment, following procedures in Chapter 111 and Texas Local Government Code §211.006.

Sec. 111-813 through 111-833. (Reserved).

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DIVISION VI. CERTIFICATE OF APPROPRIATENESS (COA).

Sec. 111-834. – Purpose.

The Certificate of Appropriateness (COA) process ensures that alterations, new construction, demolition, removal, or relocation affecting designated historic landmarks and contributing resources within historic districts preserve the historic character of the City, in accordance with this Article, the Secretary of the Interior's Standards for Rehabilitation, and all adopted design guidelines.

Sec. 111-835. – Applicability.

- (a) Work Requiring a COA.
 - (1) A COA is required prior to issuance of a building permit, demolition permit, relocation permit, or before commencing any exterior work affecting:
 - i. A designated local historic landmark;
 - ii. A contributing resource within a designated historic district under the H-Overlay; or
 - iii. Any other property for which this Article specifically requires a COA.
- (i) Actions Requiring a COA Include:
 - (1) New construction or site development on a vacant lot;
 - (2) Exterior alteration, reconstruction, restoration, or rehabilitation visible from a public right-of-way;
 - (3) Relocation of a structure;
 - (4) Demolition, in whole or in part, of any structure;
 - (5) Installation or alteration of signage, site features, fences, driveways, or landscape elements regulated by design guidelines;
 - (6) Any work specifically identified elsewhere in this Article.
- (j) Exempt Work (No COA Required).
 - (1) Ordinary maintenance and repair using identical materials that do not alter exterior appearance;
 - (2) Interior work not visible from a public right-of-way and not requiring a building permit;
 - (3) Work determined in writing by the HPO to have no material effect on historic character;
 - (4) Temporary emergency stabilization (COA must be applied for within 7 days).
- (k) Emergency Repairs.
 - (1) The HPO may authorize emergency repairs needed to immediately stabilize a damaged landmark or contributing resource.
 - (2) A COA must be submitted within 7 days after the emergency action.
 - (3) Emergency repairs shall not permanently alter historic architectural features.

Sec. 111-836. – Application Procedure.

- (a) Pre-Application Consultation.
 - (1) Applicants are encouraged, but not required, to meet with the HPO before filing a COA.
- (b) Application Requirements.
 - (1) A COA application must include:
 - i. Owner and applicant contact information;
 - ii. Property address and legal description;

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- iii. Photographs (current and historic, if available);
 - iv. Elevation drawings, architectural plans, or sketches;
 - v. Material specifications or samples;
 - vi. Any additional documentation required by the HPO or HPC.
- (c) Completeness.
- (1) Incomplete applications shall not be scheduled for review.

Sec. 111-837. – Administrative Review by the Historic Preservation Officer.

- (a) Authority.
- (1) The HPO may approve minor work that is consistent with adopted design guidelines and does not adversely affect the character of the property or district.
- (b) Eligible Minor Work May Include:
- (1) Repair or in-kind replacement of roofing, siding, windows, or doors with matching materials;
 - (2) Repainting with colors from the approved palette;
 - (3) Installation of fences, walls, sidewalks, or driveways compliant with guidelines;
 - (4) Minor signage;
 - (5) Ordinary maintenance not affecting historic fabric.
- (c) Referral to HPC.
- (1) The HPO may refer any application to the HPC if:
 - i. The proposed work may materially affect historic character; or
 - ii. The application does not clearly comply with adopted standards.
- (d) Administrative Denial.
- (1) COAs denied administratively must be forwarded to the HPC for full review upon request.
- (e) Notice and Recordkeeping.
- (1) The HPO shall issue a written decision within 15 days of a complete application.
 - (2) All administrative approvals shall be reported to the HPC at its next meeting and kept in the permanent record.

Sec. 111-838. – HPC Review and Public Hearing.

- (a) HPC as Review Authority.
- (1) The HPC shall review all COA applications not eligible for administrative approval.
- (b) Required HPC Review Tasks Include:
- (1) Demolition of any historic resource;
 - (2) Relocation of any historic resource;
 - (3) Major alterations affecting architectural integrity;
 - (4) New construction within a historic district;
 - (5) Any application referred by the HPO or requested by two HPC members.
- (c) Public Hearing.
- (1) A public hearing shall be conducted where the applicant, City staff, and interested persons may provide testimony and evidence.
- (d) Notice.
- (1) At least 15 days before the HPC hearing, the HPO shall:
 - i. Mail notice to the applicant;
 - ii. Post notice on the property visible from the right-of-way;
 - iii. Publish notice if required by City policy.

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Sec. 111-839. – Decision Standards.

- (a) HPC Action.
 - (1) The HPC shall approve, approve with conditions, deny, or delay a COA.
 - (2) A denial shall include written findings and recommendations for revisions.
- (b) Review Criteria.
 - (1) The HPC shall consider:
 - i. Secretary of the Interior’s Standards;
 - ii. Adopted design guidelines;
 - iii. The historic, architectural, cultural, or aesthetic significance of the property;
 - iv. Compatibility with surrounding resources;
 - v. The effect of the proposed work on historic character.
- (c) Compatibility Exception.
 - (1) The HPC or HPO may approve deviations from design guidelines if the proposed work meets the Secretary of the Interior’s Standards, is historically compatible, and it does not adversely affect the historic district or landmark.

Sec. 111-840. – Appeals.

- (a) Appeal of HPO Decision.
 - (1) Applicants may appeal administrative decisions to the HPC within 15 days.
- (b) Appeal of HPC Decision.
 - (1) Applicants may appeal HPC decisions to the City Commission within 15 days. The City Commission shall review the record and may affirm, modify, overturn, or remand the decision.

Sec. 111-841. – COA Expiration and Extensions.

- (a) Expiration.
 - (1) A COA expires if:
 - i. Work does not commence within one (1) year; or
 - ii. Work is suspended or abandoned for 180 days.
- (b) Extensions.
 - (1) The HPO may grant extensions up to one (1) year total with:
 - i. A written request prior to expiration; and
 - ii. A timetable for completion.

Sec. 111-842. – COA for Demolition, Removal, and Relocation.

- (a) Purpose.
 - (1) It is the intent of this section to preserve the City’s historic resources through limitations on the demolition, removal, and relocation of historic landmarks and contributing resources.
 - (2) The demolition or removal of historic resources diminishes the City’s historic character, authenticity, and cultural significance, and is strongly discouraged.
- (b) Review Required.

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- (1) No demolition or building permit shall be issued for any historic landmark or contributing resource within a historic district without prior review and approval of a COA by the HPO and the HPC.
- (c) Criteria for Demolition or Removal.
 - (1) The HPC may approve a COA for demolition or removal only upon finding one or more of the following:
 - i. The resource is a non-contributing structure without potential for future landmark designation.
 - ii. The resource has irreparably lost its historic or architectural integrity or significance.
 - iii. The structure poses an imminent threat to public health or safety as determined by the Building Official in consultation with the HPO.
 - (2) Criteria for Relocation.
 - i. The HPC may approve a COA for relocation only upon finding:
 - a) The resource is geographically isolated from related historic features, such that removal will not diminish the significance of the resource itself; and
 - b) All other preservation options have been exhausted.
 - (3) Criteria for Decision.
 - i. In deciding whether to grant a COA for demolition, removal, or relocation, the HPC shall consider:
 - a) Whether the resource has irreparably lost its historic or architectural integrity or significance;
 - b) Whether the structure poses a threat to public health or safety upon determination of the Building Official and HPO;
 - c) Whether reasonable measures can be taken by the property owner to preserve the resource;
 - d) In the case of relocation, whether the applicant has made good-faith efforts to relocate the resource in the following order of preference:
 - a. On the same site;
 - b. Within the same historic district, if applicable;
 - c. Within the City of Harlingen municipal boundaries.
 - (4) Burden of Proof.
 - i. The applicant bears the burden of proof to establish by competent evidence that the proposed demolition, removal, or relocation meets the criteria of this section.
 - (5) Required Documentation.
 - i. All applications for demolition, removal, or relocation of a historic landmark or contributing resource in a historic district shall include documentation sufficient to support the claimed criteria, including but not limited to:
 - a) Historic records or photographs.
 - b) Current condition photographs and schematics.
 - c) Structural condition reports by a licensed architect or engineer.
 - d) Cost and feasibility studies comparing rehabilitation to demolition.
 - e) Future site plans or redevelopment proposals.

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f) Owner affidavit attesting to the accuracy of information.

(6) Procedure.

i. Application.

a) The property owner(s) or authorized representative shall file a sworn COA application on City forms in accordance with this Article.

ii. Administrative Review.

a) The HPO will refer the application to the HPC or initiate a demolition delay to determine landmark eligibility if unknown.

iii. Public Hearing.

a) If the resource is a historic landmark or contributing resource, the HPO shall schedule a public hearing before the HPC.

iv. Notice of the hearing shall be provided at least fourteen (14) days prior to the hearing by:

- a) Written notice to the applicant and owners within 200 feet;
- b) Posting notice on the property visible from the right-of-way; and
- c) Publication as required by law.

v. Decision.

- a) The HPC shall approve, deny, or delay the application.
- b) Written notice of the decision shall be provided to the applicant within three (3) business days.

(a) Demolition Delay.

(1) The HPC may delay issuance of a demolition permit for up to sixty (60) days for landmarks or contributing resources in order to explore alternatives, including rehabilitation, sale, donation, or adaptive reuse.

(b) Denial and Alternatives.

(1) If the HPC denies a COA, it shall provide the applicant with a list of viable alternatives, which may include:

- i. Rehabilitation and continued use;
- ii. Sale of the property to a purchaser able to preserve the resource;
- iii. Donation to a public or nonprofit entity, or conveyance of development rights or easements.

(c) Emergency Demolition, Removal, or Relocation.

(1) If the Building Official determines, in consultation with the HPO, that a historic resource poses an immediate and substantial threat to public health or safety, the HPO may approve emergency demolition or removal of specific structural features.

(2) Findings shall be documented in writing, including:

- i. Nature of the threat;
- ii. Evidence that no reasonable alternative exists;
- iii. Scope of emergency action required.

(3) All emergency approvals shall be reported to the HPC.

(d) Appeals.

(1) Appeals from the HPC demolition decisions shall be handled according to general COA appeal procedures.

Sec. 111-843 through 111-863. (Reserved).

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DIVISION VII. HISTORIC DESIGN STANDARDS AND GUIDELINES

Sec. 111-864. – DESIGN STANDARDS AND GUIDELINES

(a) Design Standards.

- (1) In all its determinations of architectural appropriateness and historical integrity during the design and construction process on all historic properties, the HPO and HPC shall use the most recent edition of “The Secretary of the Interior’s Standards for the Treatment of Historic Properties,” referred to simply as the Secretary’s Standards.
- (2) The Secretary’s Standards are summarized in the ten points below:
 - i. Every reasonable effort shall be made to adapt the property in a manner that requires minimal alteration of the building, structure, object, or site and its environment.
 - ii. The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
 - iii. All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - iv. Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - v. Distinctive stylistic features or examples of skilled craftsmanship, which characterize a building, structure, object, or site, shall be kept where possible.
 - vi. Deteriorated architectural features shall be repaired rather than replaced, wherever practicable. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities, where practicable. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - vii. The surface cleaning of structures shall be undertaken in the gentlest means possible. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.
 - viii. Every reasonable effort shall be made to protect and preserve archeological resources affected by or adjacent to any project.
 - ix. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
 - x. Whenever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that, if additions or alterations

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were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

(b) Design Guidelines.

(1) The HPO or HPC may develop supplemental guidelines deemed necessary to implement or maintain this Article, applicable to designated historic landmarks and districts. Such guidelines may include, but are not limited to the following:

- i. Charts or samples of acceptable materials for siding, foundations, roofs, or other parts of buildings;
- ii. Illustrations of appropriate architectural details;
- iii. Specifications of appropriate relationships to streets, sidewalks, other structures, and buildings;
- iv. Illustrations of appropriate porch treatment entrances; or
- v. Illustrations of appropriate signage or street furniture.

Sec. 111-865 through 111-885. (Reserved).

DIVISION VIII. MINIMUM MAINTENANCE STANDARDS AND DEMOLITION BY NEGLECT

Sec. 111-886. – Minimum Maintenance Standards

(a) Duty to Maintain.

(1) The owner, defined as any person, entity, association, or corporation having ownership, custody, or control over a historic landmark or historic resource within a historic district, shall maintain the property to prevent deterioration that would adversely affect the character of the resource or district.

(b) Prima Facie Evidence of Neglect.

(1) Any of the following shall constitute prima facie evidence of a serious state of disrepair:

- i. Deterioration of exterior walls, foundations, or other vertical support causing leaning, sagging, splitting, or buckling.
- ii. Deterioration of external stairs, porches, handrails, window and door frames, cornices, entablatures, wall claddings, chimneys, plaster finishes, surfaces or mortars, and any other exterior architectural details that cause delamination, instability, loss of shape and form, or crumbling.
- iii. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
- iv. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of other protective covering.
- v. Rotting, holes, and other forms of material decay.
- vi. Deterioration that causes a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the structure.
- vii. Deterioration of any exterior feature to create or permit the creation of any hazardous or unsafe conditions to life, health, or property.

(c) Enforcement.

(1) Violations of this Section are subject to the enforcement and penalty provisions of Division X.

Sec. 111-887. – Demolition By Neglect.

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(a) Definition.

- (1) Demolition by neglect is the gradual deterioration of a historic property caused by failure to perform ordinary or minimum maintenance.

(b) Authority.

- (1) Pursuant to Texas Local Government Code, Chapter 214 (Municipal Regulation of Housing and Other Structures), including Sec. 214.00111, and Chapter 54 (Municipal Regulatory Authority), including Sec. 54.001, the City may preserve a substandard historic building and enforce minimum maintenance obligations.

(c) Identification and Documentation.

- (1) Suspected demolition by neglect cases may be reported by City staff, HPC members, or the public. The Historic Preservation Officer (HPO) and Building Official or designee shall inspect and document evidence of neglect. The HPO shall give notice to the property owner of their inspection findings.

(d) Violation Notice.

- (1) The property owner(s) and any lienholders of record shall be notified by certified mail and provided:
- A description of the alleged violation(s).
 - The work that must be corrected, if known, and a time window to begin and complete the work.
 - Applicable rehabilitation standards.
 - Any incentive programs available to assist rehabilitation.
- (2) A violation notice shall also be affixed to the structure in question in a conspicuous place.

(e) Stabilization Plan.

- (1) Within thirty (30) days of notice, the owner shall:
- Submit a written stabilization proposal to the HPO.
 - If vacant, mothball the property to prevent further deterioration.
- (2) The HPO may approve, conditionally approve, return the proposal to the owner with comments, or refer the proposal to the HPC.

(f) Citation Hearing.

- (1) If the owner fails to respond or create a stabilization plan, the HPO shall schedule a citation hearing before the HPC. The owner may appear before the HPC in person or by agent. After hearing testimony, the HPC may:
- Grant additional time for a stabilization plan.
 - Direct corrective action.
 - Require written progress reports until the rehabilitation is complete.
 - Issue a citation for demolition by neglect.
- (2) If the owner fails to respond or fails to appear at the citation hearing, the HPO may refer the demolition by neglect case to the City Attorney for enforcement in municipal or district court. The City may abate the violation, make necessary repairs, and recover expenses incurred by placing a lien against the property as provided under Texas Local Government Code, Chapter 214.

(g) Required Actions Following Determination.

- (1) If the demolition by neglect is confirmed by the HBP, the owner shall:
- Submit a stabilization plan within thirty (30) days;
 - Begin repairs within sixty (60) days;

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- iii. Submit written progress reports every thirty (30) days until rehabilitation is completed.
- iv. Complete repairs within one (1) year, in accordance with the Secretary of Interior's Standards for the Treatment of Historic Properties.

(h) Appeals.

- (1) The owner may appeal against the HPC's decision to the City Commission in accordance with Sec 111-840.

(i) Enforcement.

- (1) Violations of this Section are subject to the enforcement and penalty provisions of Division x.

Sec. 111-888 through 111-908. (Reserved).

DIVISION IX. INCENTIVES FOR PRESERVATION

Sec. 111-909. – Historic Preservation Incentive Programs

(a) Purpose.

The City of Harlingen recognizes the importance and value of historic buildings, structures, and objects to the cultural, social, and economic welfare of the community. To encourage the preservation of historic resources, lift property values, promote continued designation of historic landmarks and districts, and encourage proper maintenance and treatment of historic resources, the City Commission may establish incentive programs pursuant to this Section.

(b) Authorization.

- (1) The City Commission is authorized to adopt by resolution or ordinance such incentive programs for historic preservation as it deems necessary to fulfill the goals and objectives of this Article, including but not limited to:
 - i. Preservation grant programs for rehabilitation, stabilization, or restoration of historic resources.
 - ii. Property tax exemptions or abatements for historically significant sites.
 - iii. Permit and fee waivers or reductions for preservation-related work.
 - iv. Partnership programs with non-profit organizations, foundations, or state/federal agencies to provide technical or financial assistance.
 - v. Special Assistance Programs to assist low income and elderly homeowners with maintenance and rehabilitation of historic resources, including emergency stabilization.

(c) Administration.

- (1) All incentives authorized under this Division shall be administered by the Historic Preservation Officer in coordination with other relevant city departments and agencies, subject to final approval by the City Commission.

Sec. 111-910. – Historic Property Tax Exemption (Authorized under Texas Tax Code §11.24).

(a) Purpose.

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- (1) The purpose of this section is to encourage the preservation, rehabilitation, and continued use of historic properties through the provision of ad valorem tax exemptions authorized under Texas Tax Code §11.24. This incentive is intended to promote reinvestment in historic resources, support heritage-based economic development, and further the goals of this Article.
- (b) Authorization.
 - (1) Pursuant to Texas Tax Code §11.24, the City Commission may grant a partial tax exemption for a structure or archaeological site that is of historic significance as designated under this Article. The exemption may apply to all or part of the assessed value of the property, subject to conditions established by the City.
- (c) Eligibility.
 - (1) A property may qualify for consideration under this section if:
 - i. It is identified as a local historic landmark or as a contributing resource with a designated historic district; and
 - ii. It is properly maintained in accordance with the requirements of this Article, including minimum maintenance standards and any adopted design guidelines; and
 - iii. It meets any additional eligibility requirements established through the administrative program guidelines authorized under subsection (g).
- (d) Types of Exemptions.
 - (1) The City Commission may authorize one or more of the following general categories of tax exemptions:
 - i. Preservation/Restoration Exemption, for work that preserves, restores, or stabilizes historic architectural features.
 - ii. Rehabilitation Exemption, for substantial rehabilitation that extends the life of the property or returns the property to a state of usefulness.
 - iii. Heritage Tourism / Public Benefit Exemption, for properties providing public access, interpretation, or other community benefits.
 - iv. Other Exemptions, any additional exemption structure consistent with Texas Tax Code §11.24 and adopted by the Harlingen City Commission policy.
 - (2) Specific exemption percentages, durations, or conditions are not established in this ordinance and shall be administered through guidelines adopted pursuant to subsection (g).
- (e) Application Procedure.
 - (1) Applications for a historic property tax exemption shall be filed with the HPO on forms approved by the City.
 - (2) The application shall include documentation demonstrating compliance with this Article and any administrative program requirements.
 - (3) Incomplete applications may be returned or denied.
- (f) HPC Review.
 - (1) The HPO shall review the application for completeness and eligibility.
 - (2) The HPC shall review and make a recommendation to the City Commission on whether the property qualifies for the exemption under the adopted program guidelines.
 - (3) Recommendations shall be based on compliance with:
 - i. This Article;
 - ii. Texas Tax Code §11.24;

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- iii. Any applicable administrative guidelines adopted under subsection (g).
- (g) Administrative Program Guidelines.
 - (1) The City Manager, through the HPO, is authorized to develop, implement, and amend administrative program guidelines governing:
 - i. Eligibility criteria;
 - ii. Application procedures;
 - iii. Required documentation;
 - iv. Evaluation and scoring standards;
 - v. Exemption percentages or levels;
 - vi. Duration of benefits;
 - vii. Inspection or compliance requirements.
 - (2) Program guidelines need not be adopted by ordinance and may be updated as needed to implement this Section, provided they remain consistent with this Article and Texas Tax Code §11.24.
 - (3) Program guidelines shall be made publicly available and provided to applicants upon request.
- (h) Approval by City Commission.
 - (1) The City Commission shall make the final decision to grant, deny, modify, or rescind any tax exemption authorized under this Section.
 - (2) The City Commission may attach conditions to ensure continued preservation, maintenance, and public benefit.
 - (3) The exemption shall not take effect until formally approved by the City Commission and reflected in City tax records.
- (i) Ongoing Compliance; Revocation.
 - (1) Properties receiving an exemption remain subject to all provisions of this Article, including minimum maintenance standards and COA requirements.
 - (2) Failure to maintain the property, falsification of application information, or violation of any condition of approval may result in:
 - i. Revocation of the exemption; and
 - ii. Repayment of exempted taxes, if required by program guidelines or City Commission action.
 - iii. The HPO may conduct inspections or request documentation to verify compliance.
 - (3) Appeals.
 - i. Any applicant aggrieved by a denial, revocation, or modification of a tax exemption may appeal to the City Commission. The City Commission may affirm, modify, or overturn the decision.

Sec. 111-911 through 111-931. (Reserved).

DIVISION X. ENFORCEMENT AND PENALTIES

Sec. 111-932. –Enforcement

- (a) All work performed pursuant to a Certificate of Appropriateness (COA) or otherwise regulated under this Article, shall conform to the terms and conditions of such approval. Noncompliance

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shall be subject to enforcement through stop work orders, citations, fines, liens, injunctive relief, and other remedies available to the City under state law and this Code.

- (b) The HPO, or his or her designee, shall periodically inspect permitted work for compliance. Upon finding work without a COA, or not in accordance with the approved COA, the Code Compliance Officer shall issue a stop-work order and/or citation. All work shall immediately cease until the matter is corrected or otherwise resolved by the HPO or HPC.
- (c) The property owner shall then be required to request a citation hearing before the HPC to explain non-compliance, and/or to apply for a Certificate of Appropriateness and receive approval. A stop-work order is in effect until a decision is rendered by the HPO or HPC.
- (d) The HPO may refer violations to the City Attorney for enforcement in municipal court or district court, including civil injunctions and recovery of costs through liens.
- (e) All applications, decisions, orders, citations, notices, or violations issued prior to the effective date of this Ordinance shall remain in full force and effect.
- (f) All required permits from the building inspections, planning, public works, and health departments, and any other applicable department must be obtained before work can commence under an approved COA.

Sec. 111-933. – Penalties

- (a) Prohibited Acts.
 - (1) It shall be unlawful to construct, reconstruct, remove, structurally alter, remodel, renovate, restore, demolish, raze, maintain, or fail to maintain any historic resource in violation of this Article properly. Failure to maintain includes demolition by neglect as defined under Sec.111-704.
- (b) Criminal Penalties.
 - (1) Any person, firm, or corporation found violating any provision of this Article shall be guilty of a Class C misdemeanor, punishable by a fine of no less than two hundred dollars (\$200.00) and not more than two thousand dollars (\$2,000) per violation, per day, as authorized by Texas Local Government Code §54.001. Each day the violation continues shall be considered a separate offence. Such a remedy under this section is in addition to any abatement or restitution.
- (c) Civil Penalties and Abatement.
 - (1) In addition to criminal prosecution, the City may pursue civil remedies to:
 - i. Abate or enjoin any unlawful act or violation;
 - ii. Remove or require removal of unauthorized construction or materials;
 - iii. Require restoration or repair of damage to a historic resource;
 - iv. Recover costs of abatement and enforcement through liens placed on the subject property.
- (d) Restitution.
 - (1) The violator may be ordered to make financial restitution to the City to reimburse costs necessary to correct or abate the violation.

Sec. 111-934 through 111-984. (Reserved).

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SECTION 3. Savings Clause

All rights, remedies, penalties, violations, prosecutions, proceedings, permits, approvals, and causes of action existing prior to the effective date of this Ordinance shall not be affected by the adoption of this Ordinance and may be continued, enforced, prosecuted, or completed under the prior regulations as applicable.

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SECTION 4. Zoning Map Not Amended.

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This Ordinance amends the text of Chapter 111, "Zoning," only. This Ordinance does not amend the official zoning map, rezone any property, change the zoning classification of any property, or convert any property from an existing zoning district to a newly established zoning district. Existing zoning classifications shall remain in effect until amended by subsequent ordinance adopted in accordance with applicable notice, hearing, protest, voting, and adoption requirements.

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SECTION 54. Severability.

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If any section, subsection, sentence, clause, phrase, word, provision, or application of this Ordinance is held invalid, illegal, or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions or applications of this Ordinance, and the City Commission declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, word, provision, or application regardless of the invalid portion.

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SECTION 65. Codification.

The City Secretary and codifier are authorized to codify the amendments adopted by this Ordinance in Chapter 111 of the Code of Ordinances of the City of Harlingen and to make nonsubstantive formatting, numbering, punctuation, and style changes necessary for codification.

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SECTION 76. Effective Date.

This Ordinance shall take effect immediately upon its passage, approval, and publication as required by law.

PASSED and APPROVED on First Reading this ____ day of ____ 2026.

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PASSED, APPROVED, AND ADOPTED on Second and Final Reading this ____ day of ____ 2026.

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Norma Sepulveda, Mayor

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Attest:

Mayra Herrera, City Secretary

Approved as to form:

Mark Sossi, City Attorney

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DATE: May 26, 2026

**PLANNING AND ZONING COMMISSION
EXECUTIVE SUMMARY**

I. AGENDA ITEM:

Staff Report B: Future projects scheduled before the P&Z and City Commission.

II. BRIEF OVERVIEW:

ITEM	P&Z DATE	STATUS
Request to amend the previously approved Special Use Permit (SUP) to allow a Civic Lodge in a Multi-Family Residential ("M-2") District, located at 2006 Whalen Road, bearing a legal description of 2.5420 acres out of the South 5 acres and 0.62 acres out of 2.1550 acres, also out of the South 5 acres, Lot 14, Block 147, San Benito Land and Water Company Subdivision. Applicant: Narciso Villela III (Commander), c/o Veterans of Foreign Wars Post 2410.	5/12/2026	• 5/20/2026 – City Commission approved the special use permit on First Ordinance Reading. • 6/3/2026 – Consideration of the special use permit on Second and Final Ordinance Reading is scheduled before the City Commission.
Request for a Special Use Permit (SUP) to allow a bar in a Light Industry ("LI") District located at 1510 N. Commerce Street, Suite A, bearing a legal description of Lot 3, Block 1, Replat of Casa Blanca Subdivision. Applicant: Tomas Diaz	5/12/2026	• 5/20/2026 – City Commission approved the special use permit on First Ordinance Reading. • 6/3/2026 – Consideration of the special use permit on Second and Final Ordinance Reading is scheduled before the City Commission.

TITLE: Assistant Planning and Development

DEPARTMENT: Planning & Development