

## ORDINANCE NO. 2005-11

AN ORDINANCE OF THE TOWN OF NEW HOPE, TEXAS, REPEALING ORDINANCE NO. 87-03 AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN OF NEW HOPE, COLLIN COUNTY, TEXAS, AS PASSED AND APPROVED BY THE TOWN COUNCIL ON THE 30TH DAY OF JUNE, 1987; AND APPROVING AND ADOPTING REVISED COMPREHENSIVE ZONING REGULATIONS; CREATING USE DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; REGULATING WITHIN SUCH DISTRICTS THE HEIGHT OF BUILDINGS AND STRUCTURES, SIZE OF YARDS, COURTS, AND OPEN SPACES, THE HEIGHT, BULK AND USE OF BUILDINGS AND LAND FOR TRADE; PROVIDING FOR SPECIFIC USE PERMITS; SPECIFYING THE MINIMUM REQUIREMENTS FOR OFF-STREET PARKING OF VEHICLES; PROVIDING FOR THE MINIMUM REQUIRED FLOOR AREA OF DWELLING UNITS; REGULATING THE DENSITY OF DWELLINGS AND OTHER STRUCTURES, AND THE PERCENTAGE OF A LOT THAT MAY BE OCCUPIED BY STRUCTURES AND THE FLOOR AREA RATIO THEREOF; ADOPTING PERFORMANCE STANDARDS; ADOPTING A ZONING DISTRICT MAP; PROVIDING FOR A BOARD OF ADJUSTMENT AND DEFINING ITS POWERS AND DUTIES; PROVIDING A PENALTY FOR VIOLATION; PROVIDING FOR NON-CONFORMING USES AND A METHOD FOR DISCONTINUANCE THEREOF; DEFINING CERTAIN TERMS; PROVIDING FOR A CERTIFICATE OF OCCUPANCY; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; PROVIDING FOR REPEALING, SAVINGS, SEVERABILITY AND ESTOPPEL/WAIVER CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF AND AN EFFECTIVE DATE.

WHEREAS, the Town Council passed and approved a Comprehensive Land Use Plan and Future Land Use Map for the Town;

WHEREAS, under Chapter 211 of the Texas Local Government Code, authority is conferred upon the Town of New Hope, Texas (the "Town"), to adopt zoning regulations and establish zoning district boundaries within the Town for the purpose of regulating the use of land and controlling the density of population to the end that congestion may be lessened in the public streets, and the public health, safety, convenience, and general welfare promoted;

WHEREAS, the Planning & Zoning Commission after several months of study did recommend that a joint public hearing be held by the Planning & Zoning Commission and the Town Council concerning a comprehensive amendment of the Comprehensive Zoning Ordinance;

WHEREAS, pursuant to such recommendation, a joint public hearing was held on August 30, 2005, at which parties in interest and citizens had an opportunity to be heard, and notice of the time and place of the public hearing was published in a newspaper of general circulation in the Town at least fifteen (15) days prior to such hearing date, in accordance with Section 211.006 of the Texas Local Government Code; and,

WHEREAS, the Planning & Zoning Commission after the public hearing reviewed all testimony and requests, and did present to the Town Council the revised Comprehensive Zoning Ordinance in final form recommending its adoption.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW HOPE, TEXAS, THAT:

SECTION 1. Enacting Clause. This Ordinance is hereby enacted and adopted as the Comprehensive Zoning Ordinance of the Town of New Hope, Texas, including the Zoning District Map of the Town of New Hope, Texas. The previous zoning ordinance of the town, Ordinance No. 87-03, adopted on the 30th day of June, 1987, together with all amendments thereto, is hereby amended, repealed and replaced in its entirety by this Ordinance to read as set forth in Exhibit "A" attached hereto and incorporated herein by reference.

SECTION 2. Title. This Ordinance shall be known as the "Comprehensive Zoning Ordinance" or the "Zoning Ordinance" of the Town of New Hope, Texas.

SECTION 3. Penalty Provision. Any person who shall violate any provision of this Ordinance, as amended, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than \$2,000.00 for each offense. Each day that a violation of this Ordinance is permitted to exist shall constitute a separate offense, and such violation is hereby declared to be a common nuisance which may be abated by the Town of New Hope in any manner authorized by law, including injunction and an action for damages. The Town retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 4. Savings/Repealing Clause. All provisions of any ordinance of the Town in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of a repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of an ordinance. Any remaining provisions of an ordinance not so repealed are hereby retained in full force and effect.

SECTION 5. Severability. It is the intent of the New Hope Town Council that each section, subsection, sentence, clause and phrase of this Ordinance be deemed severable, and should any such section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by a court of competent jurisdiction, such declaration of unconstitutionality or invalidity shall not be construed to effect the validity of those provisions of this Ordinance left standing.

SECTION 6. Publication and Effective Date. In accordance with Local Government Code § 52.012, the caption of this Ordinance shall be published in two (2) issues of the McKinney Courier-Gazette, a weekly newspaper with general circulation in the Town, and this Ordinance shall take effect upon such publication.

PASSED, APPROVED and ADOPTED by the Town Council of the Town of New Hope, Texas, on this 27th day of September, 2005.

APPROVED:

By: \_\_\_\_\_  
Johnny Hamm, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Raynese Woody, Town Secretary

\_\_\_\_\_  
RAPIER, WILSON & WENDLAND, P.C.  
James W. Wilson, Town Attorneys

**DATES OF PUBLICATION:** \_\_\_\_\_, 2005, and \_\_\_\_\_, 2005,  
*McKinney Courier-Gazette.*

# **TOWN OF NEW HOPE**

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MCKINNEY, TEXAS 75070  
(972) 548-2489

## **COMPREHENSIVE ZONING ORDINANCE**

Ordinance No. 2005-11  
(Adopted September 27, 2005)

Prepared by:  
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THE TOWN OF NEW HOPE, TEXAS  
COMPREHENSIVE ZONING ORDINANCE

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THE TOWN OF NEW HOPE, TEXAS  
COMPREHENSIVE ZONING ORDINANCE

**Ordinance No. 2005-11**

**ARTICLE 1  
ESTABLISHMENT OF CONTROLS**

**Section 1.01. Application of Ordinance.**

An ordinance to limit and restrict to specified districts or zones and to regulate therein, buildings and structures according to their construction and the nature and extent of their use, and the nature and extent of the uses of the land in the Town of New Hope, Collin County, Texas, including the right to regulate and restrict the height, number of stories, sizes of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population and the location and use of buildings and structures and land for trade, industry, residence, or other purposes.

**Section 1.02. Interpretation and Purpose.**

In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements adopted for promotion of the public health, safety, and welfare. The zoning regulations and districts established herein are made for the purpose of promoting health, safety, moral responsibility, and the general welfare of the town, and have been designed, among other things:

- (A) to lessen congestion on streets;
- (B) to secure safety from fire, panic, and other dangers;
- (C) to promote health and the general welfare;
- (D) to provide adequate light and air;
- (E) to prevent the overcrowding of land;
- (F) to avoid undue concentration of population;
- (G) to facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements;
- (H) to conserve the value of the property and encourage the most appropriate use of land throughout the community;
- (I) to minimize the threat of release, spillage or seepage of trash, garbage, debris, sewage, wastewater, noxious fumes or odors, or toxic materials;
- (J) to lessen the potential pollution of the environment in the town or its environs; and
- (K) to preserve the rural residential environment consistent with the Comprehensive Land Use Plan.

**Section 1.03. Scope.**

It is not intended by this ordinance to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, or with private restrictions placed upon property by covenant, deed, easement, or other private agreement. Where this ordinance imposes a greater restriction upon land, buildings, or structures than is imposed or required by other ordinances, covenants, or agreements, the provisions of this ordinance shall govern. Where other ordinances impose a greater restriction than is imposed herein, the provisions of such other ordinances shall govern.

#### **Section 1.04. Compliance.**

(A) Compliance Required. All land, buildings, structures, or appurtenances thereon located within the town, which are hereafter occupied, used, erected, altered, or converted shall be occupied, used, erected, altered, or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located except as hereinafter provided. Except as specifically provided herein, there shall not be more than one main building on one lot.

(B) Creation of Building Site. No permit for the construction of a building or buildings upon any tract or plot shall be issued unless the plot or tract is part of a plat of record, properly approved by the town council, and filed in the plat records of Collin County, Texas.

#### **Section 1.05. Certificate of Occupancy.**

(A) Use or Occupancy of Buildings. No building hereafter erected, converted, or structurally altered shall be used or occupied and no building may be changed in use unless or until a Certificate of Occupancy has been issued by the building official stating that the building complies with this ordinance and other building laws of the town. The provisions of this section shall not apply to single-family residential dwellings. A Certificate of Occupancy shall state that the building or proposed use of a building complies with this ordinance and all applicable building and health laws of the town.

(B) Use or Occupancy of Land. Where property is proposed or intended for use without a building, it may not be occupied, used, or changed in use until a Certificate of Occupancy has been issued by the building official stating that the proposed use and occupancy of land complies with the provisions of this ordinance and other laws of the town.

(C) Issuance of Certificate of Occupancy. No Certificate of Occupancy shall be issued until a site plan has been approved for the intended use. The permit shall state that the use of the land complies with all applicable building and health laws and with the provisions of this ordinance. Certificates of Occupancy shall be filed in the office of the town secretary. All nonconforming properties used for other than residential purposes shall obtain a Certificate of Occupancy within 18 months of the effective date of this ordinance.

#### **Section 1.06. Completion of Building Approved or Under Construction.**

Nothing in this ordinance shall require any change in the plans, construction, or designated use of a building under construction on the effective date of this ordinance provided that the entire building shall be completed within one year of said date.

#### **Section 1.07. Definitions.**

For the purpose of this ordinance, certain terms and words are to be used and interpreted as defined in this section. Words used in the present tense shall include the future tense; words in the singular number include the plural; and words in the plural number include the singular, except where the natural construction of the writing expressly indicates otherwise. The word "shall" is mandatory and not discretionary.

(1) Accessory building or use. An "accessory building" or "accessory use" is one which is (i) subordinate to and serves a principal building or primary use; (ii) subordinate in area, extent, or purpose to the principal building or primary use served; (iii) contributes to the comfort, convenience, and necessity of occupants of the principal building or primary use served; and (iv) located on the same building lot as the principal use served. When used in this ordinance, "accessory" shall have the same meaning as "accessory use."

(2) Alley. A public space or thoroughfare which may afford secondary means of access to property abutting thereon.

(3) Automobile. A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, trucks, buses, motor scooters and motorcycles.

(4) Automobile repair garage. An establishment providing major and/or minor automobile

repair services to all motor vehicles except heavy load vehicles. Vehicles which are inoperative or under repair may not remain parked outside an automobile repair garage for a period greater than 7 days.

(5) Automobile repair, major. General repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision services, including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust-proofing; those uses listed under "automobile repair, minor"; and other similar uses.

(6) Automobile repair, minor. Minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air conditioning systems, and other similar minor services for motor vehicles except heavy load vehicles, but not including those uses listed under "automobile repair, major" or any other similar use.

(7) Automobile service station (or service station or gas station). Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of automobile fuels, lubricants, and automobile accessories, including those operations listed under minor automobile repair. Vehicles which are inoperative or under repair may not remain parked outside an automobile service station for a period greater than 5 days.

(8) Bakery and confectionery works. A manufacturing or retail facility for the production and distribution of baked goods and confectioneries.

(9) Bank, savings and loan, or credit union. An establishment for the custody, loan, exchange or issue of money, the extension of credit, and/or facilitating the transmission of funds.

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

(11) Bounding property line. The bounding property line shall be interpreted as being at the far side of any street, alley, stream, or other permanently dedicated open space from the noise source when such open space exists between the property line of the noise source and adjacent property. When no such open space exists, the common line between 2 parcels of property shall be interpreted as the bounding property line.

(12) Building. Any structure built for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind. When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building. (Also see "structure").

(13) Building height. The number of stories contained in a building and/or the number of feet above the average level of the adjoining ground.

(14) Building lot. A single tract of land located within a single block which (at the time of filing for a building permit) is designed by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. It shall front upon a street or approved place. Therefore, a "building lot" may be subsequently subdivided into two or more "building lots" or a number of "building lots," subject to the provisions of this ordinance and the town's subdivision ordinance.

(15) Building official. The building inspector or administrative official charged with the responsibility for issuing permits and enforcing the zoning ordinance, subdivision ordinance, and building code ordinance of the town.

(16) Car wash. A structure used to wash motorcycles, automobiles, and light load vehicles.

(17) Certificate of Occupancy. An official certificate issued by the town through the building official which indicates conformance with or approval of a conditional waiver from the zoning regulations

and authorizes legal use of the premises for which it was issued.

(18) Child care center in place of residence. Any residence used to accommodate 3 or more unrelated children under the age of 16 years for care during regular periods of time apart from their natural parents, legal guardians or custodians, excluding the caretaker's own children, for which the caretaker receives compensation. The total number of children, including the caretaker's own children, shall not exceed 9 at any given time. The term "child care center" shall not include overnight lodging, medical treatment or counseling services, and does not apply to any school.

(19) Church or rectory. A place of assembly and worship by a recognized religion including synagogues, temples, churches and instruction rooms, and the place of residence for the ministers, priests, rabbis, teachers, and directors of the premises.

(20) Clinic. A group of offices for one or more physicians, surgeons, dentists or similar members of the medical profession to treat sick or injured out-patients or animals.

(21) College or university. 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.

(22) Commercial amusement, indoors. An amusement operation, such as a bowling alley, movie theater, etc., housed in an acoustically treated building.

(23) Commercial amusement, outdoors. An amusement operation, such as a golf driving range, pitch and putt course, archery, miniature golf and similar outdoor activities, but not including go-cart racing, drag strips, auto racing, or motorcycle racing.

(24) Commission and/or planning and zoning commission. The Planning and Zoning Commission of the Town of New Hope, Texas.

(25) Council or town council. The Town Council of the Town of New Hope, Texas.

(26) Courtyard. An open, occupied space bounded on more than 2 sides by the walls of a building. An inner courtyard is entirely surrounded by the exterior walls of a building. An outer courtyard has one side open to a street, alley, yard or other permanent open space.

(27) Day care center. A commercial establishment assigned to accommodate the care of four (4) or more unrelated children and licensed by the State of Texas.

(28) Development or to develop. A "development" includes the construction of new buildings or structures on a building lot, the relocation of an existing building on another building lot, or the use of open land for a new use. To "develop" is to create a development.

(29) District. A section of the town for which the regulations of this ordinance, such as the area, height, use, etc. of the land and buildings, are uniform.

(30) Dwelling, multiple-family. Any building or portion thereof which is designed, rented, leased, or let, to be occupied as two or more dwelling units or apartments which are occupied as a home or residence of 2 or more families.

(31) Dwelling, single-family. A detached building located on a lot or separate building tract, and having no physical connection to a building located on any other separate lot or tract, that is designed to be occupied by not more than one family, but not including house trailers, mobile homes or manufactured homes.

(32) Dwelling unit. A building or portion of a building which is arranged, occupied, or intended to be occupied as living quarters for a single family and including facilities for food preparation and sleeping.

(33) Farm or ranch. An area of 10 acres or more used for growing of usual farm products, vegetables, fruits, trees, and grain and for the raising thereon of the usual farm poultry and farm animals

such as horses, cattle, and sheep and including the necessary accessory uses for raising, treating, and storing products raised on said premises, but not including the commercial feeding or the feeding of garbage to swine or other animals and not including any type of agricultural or husbandry specifically prohibited by ordinance or law.

(34) Feed lot. A concentrated feeding operation wherein livestock are fed in a place of confinement and crop or forage growth cannot be sustained during the growing season in the area of confinement.

(35) Feed store. An establishment for the selling of corn, grain and other food stuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery.

(36) Florist or plant shop. An establishment for the display and retail sale of flowers, small plants and related accessories.

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

(38) Furniture, home furnishings and equipment stores. This group includes retail stores selling goods for furnishing the home including but not limited to furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances.

(39) Garage, private. An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the main building; if occupied by the vehicles of others, it is an open storage building.

(40) Golf course or country club. An area of 20 acres or more containing a golf course and/or a club house and available to the public or for private membership. Such operations may contain adjunct facilities such as private club, dining room, swimming pool, tennis courts, and similar recreational or service facilities.

(41) Grocery or food store. A business establishment that displays and sells consumable goods that are not to be eaten on the premises.

(42) Home occupation. A business, occupation, or profession conducted within a residential dwelling unit by a resident thereof, and which shall have the following characteristics.

(a) the activity shall employ only members of the immediate family of the resident of the dwelling unit; and

(b) there shall be no external evidence of the occupation detectable at any lot line, said evidence to include advertising signs or displays, smoke, dust, noise, fumes, glare, vibration, electrical disturbance, storage of materials or equipment, or traffic or parking of vehicles in a manner evidencing the conduct of a business.

(43) Hotel or motel. A building or group of buildings designed for and occupied as a temporary dwelling place of individuals and providing 4 or more room units where customary hotel services such as linen, maid service, telephone and upkeep of furniture is provided.

(44) Household appliance service and repair. The maintenance and rehabilitation of appliances customarily used in the home including but not limited to washing and drying machines, refrigerators, dishwashers, trash compactors, ovens, ranges, countertop kitchen appliances, vacuum cleaners and hair dryers.

(45) HUD-Code Manufactured Home (or manufactured home). A structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a

permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. § 3282.8(g).

(46) Junk or salvage yard. A lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes an automobile wrecking yard and automobiles parts yard. A "junk yard" does not include such uses conducted entirely within an enclosed building.

(47) Laundromat (or self-serve washateria). A facility where patrons wash, dry or dry clean clothing and other fabrics in machines operated by the patron.

(48) Light load vehicles. A self-propelled vehicle have a Manufacturer's Recommended Gross Vehicle Weight (GVW) not greater than 11,000 pounds and having no more than 2 axles, such as pick-up trucks, vans, recreational vehicles, campers and other similar vehicles but not including automobiles and motorcycles.

(49) Light manufacturing. Manufacturing of finished products or parts, predominately from parts, predominately from previously prepared materials, including fabrication, assembly and packaging of such products and incidental storage, sales and distribution of such products, but excluding basic industrial processing.

(50) Lot. Land occupied or to be occupied by a building and its accessory building including such open spaces as are required under this ordinance and having its principal frontage upon a public street or officially approved place. (See *Illustrations 1, 2, 3 and 4, Appendix "B"*)

(51) Lot area. The area of any lot shall be the net area of the lot and shall not include portions of public streets, alleys, or land designated as the 100-year flood plain as determined by a registered survey.

(52) Lot depth. The horizontal distance measured perpendicularly between two points on the front lot line and two points on the rear lot line which creates an area that meets the zoning district's minimum width and depth requirements. Lot depth shall not include easements which impair the use of the lot surface as a yard. (See *Illustration 2, Appendix "B"*)

(53) Lot lines. The lines bounding a lot as defined herein.

(a) Lot line, front. A "front lot line" is that boundary of a building lot which is the line of an existing or dedicated street. For corner lots, either street line may be selected as the front lot line providing that a front and rear yard are provided adjacent and opposite, respectively, to the front lot line. (See *Illustration 4, Appendix "B"*)

(b) Lot line, side. A "side lot line" is that boundary of a building lot which is not a front lot line or a rear lot line.

(c) Lot line, rear. The "rear lot line" is that boundary of a building lot which is the most distant from and is, or is most nearly, parallel to the front lot line.

(54) Lot of record. A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Clerk of Collin County prior to the adoption of this ordinance.

(55) Lot width. The width of a lot at the front building or setback line. (See *Illustration 1, Appendix "B"*)

(56) Main building. The building or buildings on a lot which are occupied by the primary use.

(57) Medical facilities.

(a) Convalescent, Rest or Nursing Home. A health facility used for or customarily

occupied by persons recovering from illness or suffering from infirmities of age, and furnished meals or continuing nursing care for compensation.

(b) *Dental Clinic or Medical Clinic.* A facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human out-patients provided that patients are not kept overnight except under emergency conditions.

(c) *Dental Office or Doctor's Office.* Same as dental or medical clinic.

(d) *Hospital.* An institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities and staff offices which are an integral part of the facilities.

(e) *Public Health Center.* A facility primarily utilized by a health unit for providing public health services included related facilities such as laboratories, clinics and administrative offices operated in connection therewith.

(f) *Sanitarium.* An institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents

(58) Mining, sand, gravel or stone. The use of property for the purpose of extracting sand, gravel or stone from the earth.

(59) Mobile home. A structure that was constructed before June 15, 1976, which is built on a permanent chassis, and designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; and is transportable in one or more sections; and in the traveling mode is at least 8 feet in width or at least 40 feet in length; or when erected on site is at least 320 square feet; and includes the plumbing, heating, air conditioning, and electrical systems of the home.

(60) Modular home (or industrialized housing). A structure or building module as defined, under the jurisdiction and control of the Texas Department of Labor and Standards and that is installed and used as a residence by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term does not include a mobile home as defined in the Texas Manufactured Housing Standards Act (Article 5221f V.T.C.S.), nor does it include building modules incorporating concrete or masonry as the primary structural component.

(61) Motor vehicle. Any vehicle designed to carry one or more persons which is propelled or drawn by mechanical power, such as automobiles, trucks, motorcycles and buses.

(62) Nonconforming use. A building, structure, or use of land lawfully occupied at the time of the effective date of this ordinance or amendments thereto, and which does not conform to the use of the regulations of the district in which it is situated.

(63) Noxious matter. A material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being or comfort of humans.

(64) Nursery. An establishment, including a building, part of a building or open space, for the growth, display and/or sale of large plants, shrubs and trees and other materials used in indoor or outdoor planting.

(65) Occupancy. The use or intended use of the land or building by proprietors or tenants.

(66) Office, professional, general administrative. A room or group of rooms used for the provision of executive, management or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel,

travel, secretarial services, telephone answering and business offices of public utilities, organizations and associates; but excluding medical offices.

(67) Office center. A building or complex of buildings used primarily for conducting the affairs of a business, profession, service, industry or government or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

(68) Open space or open areas. 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 or porches.

(69) Open storage or outside storage. The keeping or storing of any goods, material, merchandise, or equipment outside a building on a lot or tract for more than 24 hours.

(70) Ordinance or zoning ordinance. Unless the context clearly indicates otherwise, the terms "ordinance" and "zoning ordinance" shall mean this Town of New Hope Comprehensive Zoning Ordinance No. 2005-11, as amended from time to time.

(71) Park, playground, community center. A recreation facility, park, or playground owned and operated by a public agency, such as a municipality or school district, and available to the general public.

(72) Parking space. A surface area, enclosed or unenclosed, sufficient in size to store one automobile together with a surface driveway connecting the parking space with the street or alley and permitting ingress or egress of an automobile.

(73) Plat. A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the subdivision standards of the town and subject to approval by the planning and zoning commission. Reference to a plat in this ordinance means an official plat of record that has been approved by the planning and zoning commission and filed in the plat records of Collin County, Texas.

(74) Premises. A lot or tract of land together with any buildings or structures situated thereon.

(75) Primary use. The principal or predominant use of any lot or building, as distinguished from a subordinate, incidental or accessory use.

(76) Principal building. See "main building."

(77) Public building. A building constructed or acquired and maintained by the town or a general public agency for the use and benefit of the public including libraries, museums, police and fire stations, and similar physical structures.

(78) Public view. Any area that can be seen from any public street.

(79) Public park. Any publicly owned park, playground, parkway, greenbelt, or roadway within the jurisdiction and control of the town.

(80) Recreation area. A privately owned park, playground, or open space maintained by a community club, property owners' association or similar organization, or by a day nursery, kindergarten or private school.

(81) Residence. Same as a dwelling; also, when used with District, an area of residential regulations.

(82) Residential district. A district where the primary use or purpose is residential use.

(83) Restaurant or cafeteria. An eating establishment where customers are primarily served at tables or self-served and food is consumed on the premises, which may include a drive through window.

(84) Restaurant, drive-in type. An eating establishment where primarily food or drink is served to customers in motor vehicles or where facilities are provided on the premises which encourage the serving and consumption of food in automobiles on or near the restaurant.

(85) Retail store or shop. An establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

(86) Retail stores, general. Offering all types of consumer goods for sale, but excluding the display and sale in the open outside a building, of new or used automobiles, heavy machinery, building materials, used appliances, furniture, or salvage materials.

(87) School, private. A school under the sponsorship of a private agency or corporation other than a public agency.

(88) School, public or parochial. A school under the sponsorship of a public or religious agency having a curriculum generally equivalent to public elementary or secondary schools, but not including private, trade, or commercial schools.

(89) School, trade or commercial. Establishments, other than public or parochial schools, private primary or secondary schools, or colleges, offering training or instruction in a trade, art, or occupation.

(90) Screening device. A barrier of stone, brick, pierced brick or block, wood, or other permanent material of equal character, density, and acceptable design at least 4 feet in height, where the solid area equals at least sixty-five percent (65%) of the wall surface, including an entrance gate or gates; or foliage or an acceptable type of a density that will not permit through passage; or an acceptable combination of these materials. A screening device shall be continuously maintained.

(91) Servant's quarters. An accessory building located on the same lot as the main residential building or a portion of a main residential building, which is used or occupied as a place of abode or residence by a person (and perhaps his/her family) employed full-time as a bona fide caretaker, servant or farm worker by the land owner or occupant of the main building. (Also referred to in this ordinance as an "accessory dwelling" or "caretaker's quarters").

(92) Service station. Any building or premises used for the dispensing, sale, or offering for sale at retail of any automobile fuels or oils. If the dispensing, sale, or offering for sale is incidental to a public garage, the premises shall be classified as a public garage. Also known as a "filling station."

(93) Setback line. A line parallel or approximately parallel to any lot line or street line at a specific distance therefrom marking the minimum distance from the line or street line that a building or structure may be erected. (*See Illustration No. 3 in Appendix "B"*)

(94) Specific use. A means for developing certain designated uses in a manner in which the specific use will be compatible with the adjacent property and consistent with the character of the neighborhood.

(95) Stable, commercial. A stable used for the rental of stall space or for the sale or rental of horses or mules.

(96) Stable, private. An area used solely for the owner's private sale or keeping of horses, mules or ponies.

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

(98) Street. Any dedicated public thoroughfare having a width in excess of 24 feet, excluding shoulders and ditches, which affords the principal means of access to abutting property.

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

(100) Structural alteration. Any change in the supporting member of a building, such as a bearing wall, column, beams or girders, or any substantial change in the roof or in the exterior walls.

(101) Structure. Anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground. (See also "building").

(102) Town. The Town of New Hope, Texas.

(103) Toxic materials. Materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

(104) Use. The "use" of property is the purpose or activity for which the land or a building thereon is designed, arranged or intended, or for which it is occupied and maintained, and shall include any manner of such activity with respect to the standards of this ordinance. (See also "primary use").

(105) Utility facilities, private. A nonpublic utility requiring specific facilities in residential areas or on public property such as heating, cooling, or communications not customarily provided by the town or typical franchised public utilities.

(106) Veterinarian clinic. An establishment, not including outside pens, where animals and pets are admitted for examination and medical treatment.

(107) Yard. An open space other than a court, on the lot on which a building is situated and which is not obstructed from a point 40 inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special features. (See *Illustrations 3 and 4*)

(108) Yard, front. 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 line as specified for the district in which it is located.

(109) Yard, rear. An open, unoccupied space, except for accessory building 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 buildings and the rear lot line as specified in the district in which the lot is located.

(110) Yard, side. An open, unoccupied space or spaces on one or two sides of a main building and on the same lot with the building, situated between the building and a side line of the lot and extending through from the front yard to the rear. Any lot line not the rear line or a front line shall be deemed a side line.

(111) Zoning District Map. The official certified map upon which the boundaries of the various districts are drawn and which is an integral part of this zoning ordinance.

## ARTICLE 2

### ADMINISTRATION, ENFORCEMENT AND PENALTIES

#### Section 2.01. Administrative Official.

The provisions of this ordinance shall be administered and enforced by the building official. The building official or other duly authorized person shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this ordinance. Whenever any construction work is being done contrary to the provisions of this ordinance, the building official may order the work stopped by notice in writing served on the owner or contractor doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the building official to proceed with the work.

#### Section 2.02. Planning and Zoning Commission.

The duly appointed planning and zoning commission of the town shall have the following authority and responsibilities under the provisions of this ordinance:

(A) The commission shall consider and make a recommendation to the town council with regard to the following:

- (1) any site plan, architectural elevation plan or other development plans required under this ordinance; or
- (2) any request for specific use permit.

(B) Prior to any consideration by the town council, the commission shall hold a public hearing and make a recommendation to the town council with regard to the following:

- (1) any requested or proposed change or amendment to any of the provisions or regulations contained in this ordinance; or
- (2) any change or amendment to the zoning district map or any change to any zoning district boundary.

(C) The commission shall, either on its own initiative or by direction of the town council or at the request of any person having a proprietary interest in any property, schedule and hold a public hearing on any proposed change or amendment to this Ordinance as provided herein.

**Section 2.03. Enforcement and Penalties.**

Any person, firm, corporation, or political subdivision who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than \$2,000.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense, and such violation is hereby declared to be a common nuisance which may be abated by the town in any manner authorized by law including injunction and an action for damages.

**ARTICLE 3  
CHANGES AND AMENDMENTS**

**Section 3.01. Declaration of Policy.**

(A) The town council declares the enactment of this ordinance governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in this ordinance or in the boundaries of the zoning districts except:

- (1) to correct a manifest error in this ordinance or the zoning district map;
  - (2) to recognize substantially changed or changing conditions in a particular locality;
  - (3) to recognize substantial changes in technology, living style, or manner of doing business;
- and
- (4) to provide for orderly development consistent with the Comprehensive Land Use Plan.

(B) Every proposal to amend this ordinance shall be considered in light of the above declaration of policy and by the purposes enumerated in the preamble of this ordinance.

**Section 3.02. Authority to Amend.**

The town council from time to time, after receiving a final report thereon by the planning and zoning commission and after public hearings required by law, may amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts. An amendment, supplement, or change to this ordinance may be ordered for consideration by the town council, be initiated by the commission, or be requested by proposal of a property owner or by a person holding a lease on property with the consent of its owner. The commission on its own motion or on request of the town council may initiate consideration of a change in any district boundary or zoning regulation whenever it finds that the public will benefit from

consideration of the matter.

### **Section 3.03. Procedure to Amend.**

(A) Proposal Required. Every proposal to amend this ordinance shall be considered in light of the above declaration of policy and by the purposes enumerated in Section 1.02, Interpretation and Purpose.

(B) Public Hearing and Notices. Prior to making its report to the town council, the planning and zoning commission shall hold at least one public hearing thereon. Before the 10th day before the hearing date, written notice of each public hearing before the 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. In addition, before the 15th day before the date of the hearing, notice of the time and place of the hearing must be published in the official newspaper of the town or a newspaper of general circulation in the town.

(C) Commission Report. The planning and zoning commission, after the public hearing is closed, shall prepare its report and recommendations on the proposed change, stating its findings and evaluation of the request and of the relationship of the request to the town's Comprehensive Land Use Plan. The commission may defer its report for not more than 90 days until it has had opportunity to consider other proposed changes which may have a direct bearing thereon. In making its determination, the commission shall consider the following factors:

- (1) whether the uses permitted by the proposed change would be appropriate in the area concerned;
- (2) whether adequate public school facilities and other public services (water, etc.) exist or can be provided to serve the needs of additional structures likely to be constructed as a result of such change and the consequences of such change; and
- (3) how other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.

(D) Council Consideration.

(1) Proposal Recommended for Approval. Every proposal which is recommended favorably by the planning and zoning commission shall be forwarded to the council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.

(2) Proposal Recommended for Denial. When the commission determines that a proposal should be denied, it shall so report and recommend to the council. No hearing shall be set on the proposal until and unless the council has reviewed the recommendations of the commission, has considered any appeal, as provided below, and has adopted a motion setting the matter for hearing.

(3) Appeal Procedure. An appeal from the decision of the commission may be taken whenever any party in interest is aggrieved by the action of the commission on a specific proposal. Such appeal shall show that the commission either (i) has been prejudiced in its deliberation or (ii) has not been given the opportunity to consider certain information because it could not have been made available to the commission at the time of its public hearing. The following procedure shall be required:

(a) The aggrieved party shall reduce to writing his appeal stating specifically how, in his opinion, the commission committed an error. He shall file his appeal with the town secretary and the commission within 30 days following the commission action. The town secretary shall forward the appeal to the council with the regular report of commission action on the subject proposal.

(b) Upon receipt of written appeal, the council shall determine whether or not the commission committed error. If the council concludes that certain previously unavailable information should be considered by the commission, it may refer the original proposal and the

appeal for a new hearing, new report, and recommendation. If the council concludes that commission prejudice prevents a fair hearing or recommendation, the council may schedule its own hearing on the original proposal and recommendation.

(E) Council Hearing and Notice. The town council may from time to time amend or change by ordinance the district boundaries or the regulations herein established. A public hearing on such amendment, supplement, or change shall be held by the council. Before the 15th day before the date of the hearing, notice of the time and place of the council hearing shall be published in the official newspaper of the town or a newspaper of general circulation in the town.

(F) Written Protest. If a proposed change to a district boundary or regulation is protested in accordance with this subsection, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths ( $\frac{3}{4}$ ) of all members of the town council. The protest must be written and signed by the owners of at least twenty percent (20%) of either:

- (1) the area of the lots or land covered by the proposed change; or
- (2) the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.

In computing the percentage of land area under this subsection, the area of streets and alleys shall be included. Protests signed by property owners may be filed prior to or at one of the public hearings conducted by either the commission or the town council. Written protests filed with the commission shall be forwarded to the council with the commission's recommendation on the request.

(G) Negative Recommendations. If the planning and zoning commission makes a negative recommendation relating to zoning application, a majority of all current members of the council shall be necessary to grant the zoning application notwithstanding the negative recommendation of the commission.

### **Section 3.04. Limitation on Re-application.**

When the town council has denied a proposal or application to amend, supplement, or change these zoning regulations or the boundary of a zoning district, or when an applicant has withdrawn his proposal at the commission meeting thereon, no new applications of like nature shall be accepted by the town or scheduled for hearing by the commission within a period of 12 months of the date of the town council's denial or applicant's withdrawal. Provided, however, on receipt of written request by the original applicant stating how conditions have changed substantially in the community since prior consideration of his proposal so as to justify an earlier review of this matter, the town council may waive the mandatory delay period and authorize the acceptance of a new application.

## **ARTICLE 4 ZONING DISTRICTS AND USES**

### **Section 4.01. Establishment of Districts.**

(A) The Town of New Hope, Texas, is hereby divided into five (5) zoning districts as follows:

<u>Districts:</u>	<u>Abbreviated Designation:</u>
Single Family Residential - 2 Acre Lots	"SF-2"
Single Family Residential - 4 Acre Lots	"SF-4"
Manufactured Home District	"MHD"
General Business District	"GB"
Municipal District	"MU"

(B) The location and boundaries of the districts herein established are shown upon the official zoning district map of the town. The zoning district map, together with all notations, references and other information

shown thereon, and all amendments thereto, shall be as much a part of this ordinance as if fully set forth and described herein. The zoning district map, properly attested, is on file in the office of the town secretary.

#### **Section 4.02. Permitted Uses.**

Land and buildings in each of the zoning districts may be used for the listed uses in the SCHEDULE OF PERMITTED USES in APPENDIX "A" to this ordinance. No land shall hereafter be used and no building or structure shall hereafter be erected, altered, or converted which is arranged or designed or used for other than those uses specified for the district in which it is located as set forth in the Schedule of Permitted Uses.

#### **Section 4.03. Agricultural Use.**

Agricultural use, as defined in this section, is permitted in all districts on any lot having a minimum size of 10 acres in accordance with the following restrictions:

(A) Permitted Agricultural Uses. The following agricultural uses are permitted:

(1) All general and special agricultural, farming, ranching, stock and poultry raising, dairy, and other related uses, so long as same do not cause a hazard to health by reason of odor, dust, fumes, noise, or vibration; are not otherwise detrimental to public welfare; and in no case shall poultry or livestock barns or other outbuildings normally used to house animals be nearer than 100 feet from any property line.

(2) All general and special forestry and other related uses, so long as same are not offensive by reason of odors, dust, fumes, noise, vibration, or unsightly conditions, or are not otherwise detrimental to the public welfare.

(3) Houses, barns, stables, corrals, greenhouses, and any other building necessary to perform any principle permitted use.

(B) Prohibited Agricultural Uses. The following agricultural uses are prohibited:

(1) Feed lots established for commercial purposes except as necessary to perform a principle permitted use.

(2) Slaughter pens, rendering works and the like.

(3) Facilities or uses for the treatment and/or storage of noxious matter, toxic materials or any form of liquid or solid waste materials from any source except under the provisions of Article 12, Specific Use Permits.

(C) Density. At no time shall the residential density exceed one primary single family residence per 10 acres, together with one guest or caretaker house. The maximum lot coverage for main buildings and accessory buildings, including those used for agricultural purposes, is fifteen percent (15%).

(D) Height Regulations. Same as residential in Section 6.03(A).

#### **Section 4.04. 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 town. 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) The question concerning any new or unlisted use shall be referred to the planning and zoning commission requesting an interpretation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity; sales; processing; type of product, storage, and amount and nature thereof; enclosed or open storage; anticipated employment; transportation requirements; and the amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated.

(B) 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 district or districts within which such use should be permitted.

(C) If the planning and zoning commission determines that the proposed use should be added to Section 4.02. Permitted Uses, this ordinance may be amended after public hearings before the commission and the town council. If the commission determines that the proposed use fits within the definition of a use currently listed in the Schedule of Permitted Uses (APPENDIX "A"), it shall transmit such finding, together with an appropriate parking requirement, in recommendation form to the town council. The town council shall by resolution approve the recommendation of the commission or make such determination concerning the classification of such use as is determined appropriate based on its findings.

#### **Section 4.05. Prohibited Uses.**

(A) All uses not expressly permitted under Section 4.02 are prohibited, except as provided for in Article 12, Specific Use Permits.

(B) No land or building shall be used or occupied for a use which will in any manner create an unreasonable potential hazard to the general public, health, safety, and welfare, as, for example, but not by way of limitation, any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, radioactive, or other hazardous conditions; noise or vibration; smoke, dust, odor, or other form of air pollution; heat, cold, dampness, movement of air, electrical, or other disturbances; glare; or liquid or solid wastes in a manner or amount not conforming to the appropriate performance standards of Article 15.

(C) Without limiting the foregoing sections, or being limited thereby, the following uses are specifically prohibited:

(1) Storage, manufacturing, purifying, packaging, repackaging, selling, or supplying of toxic or highly flammable chemicals or gases, as a primary use regardless of quantities involved.

(2) Above ground tank farms or storage of gasoline, fuel oils, gases, or chemicals, or other flammable, corrosive, or toxic substances as a primary use or in total on site quantities exceeding ten thousand 10,000 liquid gallons or equivalent.

(3) Adult bookstores, businesses showing NC-17 rated movies or live acts, and other businesses dealing primarily with indecent or obscene materials, acts, or paraphernalia.

#### **Section 4.06. Nonconforming Uses.**

(A) Intent of Provisions.

(1) Within the districts established by this ordinance or amendments thereto, there may exist lots/tracts, structures, uses of land and structures, and characteristics of use which were lawfully in existence and operating before this ordinance was enacted, amended or otherwise made applicable to such lots/tracts, structures or uses, but which do not now conform to the regulations of the district in which they are located. It is the intent of this ordinance to permit such nonconforming uses to continue, as long as the conditions within this section and other applicable sections of this ordinance are met.

(2) It is further the intent of this ordinance that nonconforming uses shall not be enlarged upon, expanded or extended, and shall not be used as a basis for adding other structures or uses prohibited elsewhere in the same district.

(3) Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

(B) Nonconforming Status. Any use or structure that does not conform with the regulations of the zoning district in which it is located shall be deemed a nonconforming use or structure under this ordinance when:

(a) The use or structure was in existence and lawfully constructed, located and operating prior

to the effective date of the town's previous zoning ordinance adopted on June 30, 1987, and has since been in regular and continuous use.

(2) On the effective date of this ordinance, the use or structure was in existence and lawfully constructed, located and operating under the provisions of the town's previous comprehensive zoning ordinance, or was a nonconforming use or structure thereunder, and which use or structure has since been in regular and continuous use.

(3) The use or structure was in existence at the time of annexation to the town and has since been in regular and continuous use.

(C) Continuing Lawful Use of Land and Structures.

(1) A nonconforming use or structure may continue to be used, operated or occupied in accordance with the terms of the zoning regulations by which it was established, or in the case of annexed property, in accordance with the regulations under which it was created.

(2) A nonconforming structure occupied by a nonconforming use may be re-occupied by a conforming use, following abandonment of the nonconforming use.

(3) Notwithstanding anything in this ordinance to the contrary, an existing single-family dwelling located in a nonresidential district may be improved, maintained, or rebuilt as a conforming structure.

(D) Changing Nonconforming Uses.

(1) A nonconforming use shall not be changed to another nonconforming use.

(2) A nonconforming use may be changed to a conforming use; however, once such change is made, the use shall not be changed back to a nonconforming use.

(3) A conforming use located in a non-conforming structure may be changed to another conforming use, but shall not be changed to a nonconforming use.

(E) Expansion of Nonconforming Uses and Structures.

(1) A nonconforming use may be extended throughout the structure in which it is located provided that:

(a) the structure or its premises shall not be enlarged or increased in height, in floor area or in land area to accommodate extension of the nonconforming use;

(b) no alteration shall be made to the structure occupied by the nonconforming use, except those alterations that are required by law to preserve the integrity of the structure and alterations that would upgrade the quality, safety or aesthetic appeal of the structure; and

(c) the number of dwelling units occupying the structure shall not exceed the number of dwelling units existing at the time the use became nonconforming.

(2) A nonconforming use occupying a structure shall not be extended to occupy land outside the structure.

(3) A nonconforming use or structure shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the time the use or structure became nonconforming, except to provide additional off-street parking or loading areas as may be required by this ordinance.

(F) Reconstruction or Repair of Nonconforming Structure. If a structure occupied by a nonconforming use is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this ordinance. In the case of partial destruction of a nonconforming use not exceeding seventy-five percent (75%) of its reasonable value, reconstruction will be permitted, but the size or function of the nonconforming use cannot be expanded.

(G) Abandonment of Nonconforming Uses and Structures. If a nonconforming use or structure is abandoned, any future use of the premises shall be in conformity with the provisions of this ordinance, as amended, and with any other applicable town ordinances in effect at the time the use is resumed or the structure is re-occupied. A nonconforming use or structure shall be conclusively deemed "abandoned" in the following circumstances irrespective of any intent of the property owner:

- (1) the use ceases to operate for a continuous period of 6 months; or
- (2) the structure remains vacant for a continuous period of 6 months.

(H) Nonconforming Lots. Nothing in this ordinance shall be construed to prohibit the use of a lot that does not meet the minimum lot standards of the zoning district in which it is located, provided that the lot is zoned for the intended use and the lot was platted of record prior to the effective date of this ordinance.

(I) Right to Proceed Preserved. Nothing contained in this section is intended to alter any rights that may have accrued under prior regulations pursuant to Texas Local Government Code Section 43.002, or Sections 245.001 to 245.006.

#### **Section 4.07. Temporary Uses.**

(A) Permitted Uses. The following temporary uses may be allowed under the conditions and for the time specified upon proper application and approval by the building official:

(1) A temporary building may be used as an office incidental to construction work if such building is located on the same property as the site under construction, contains no living quarters, and provides no uses not incidental to construction on the premises. The temporary building shall be removed within 30 days following final acceptance of the construction by the town.

(2) A temporary facility or a permanent residential structure located on any platted lot in an approved residential subdivision may be used as a construction office, or as a sales office, or for display purposes. Such temporary use shall be allowed for a period of one year. Upon application and approval by the building official, this temporary use may be extended for one or more additional 6 month periods provided construction remains continuous.

(3) Temporary uses of a philanthropic or religious nature by nonprofit or not for profit organizations may be allowed for a period of up to 30 days. Upon application and approval by the building official, this temporary use may be extended for no more than one additional period of up to 30 days.

(4) Temporary sales of seasonal products such as firewood, cut trees, fruits and vegetables and the like may be allowed during their normal and generally accepted season for a period of up to 30 days. Upon application and approval by the building official, this temporary use may be extended for no more than 2 additional periods of up to 30 days.

(B) Criteria for Approval. The building official, in approving or denying a temporary use application, shall take into consideration (i) the nature of the proposed temporary use, (ii) its compatibility with existing uses on surrounding properties; (iii) the potential for noise, dust, light, and traffic to be generated, (iv) health and sanitary conditions, (v) and compliance with other provisions of this ordinance. The building official shall have the right to revoke any temporary use at any time or to deny any extension upon finding that a hazard or nuisance shall exist by continuing such use. Upon such revocation or denial, a temporary use shall immediately cease and shall be removed within 10 days of notification of such finding.

## **ARTICLE 5 ZONING DISTRICT MAP**

#### **Section 5.01. Maintenance of Zoning District Map.**

(A) The official "Zoning District Map of the Town of New Hope, Texas" shall be kept in the office of the town secretary and one copy shall be provided to the building official. It shall be the duty of the town

secretary to keep the official zoning district map current, together with all copies thereof, by entering on such maps any changes which the town council may from time to time order by amendments to this ordinance or to the official zoning district map.

(B) The town secretary shall affix a certificate identifying the official zoning district map. The town secretary shall likewise identify copies of the map to be kept by the planning and zoning commission and building official. All amendments of the map shall be made immediately after their enactment and the date of the change shall be noted on the certificate.

### **Section 5.02. Rules for the Interpretation of District Boundaries.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts shown on the zoning district map, the following rules shall apply:

(A) Where district boundaries are indicated as approximately following the center lines, street lines, or highway right-of-way lines shall be construed to be said boundaries.

(B) Where district boundaries are so dedicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

(C) Where district boundaries are indicated as approximately following a parallel to a drainage course or other prominent physical feature, such drainage course, other prominent physical feature, or parallel line shall be construed to be said boundaries.

(D) Where it is indicated that district boundaries are approximately parallel to the center line or street lines of streets, or to the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning district map. If no distance is given, such dimensions are determined by the use of the scale appearing on the map.

(E) Where district boundaries are so indicated that they are approximately perpendicular to the center line or right-of-way lines of streets, highways, or drainage courses, such district boundaries shall be construed to be perpendicular to said street, highways, or drainage courses.

(F) If unsubdivided property, the district boundary lines on the zoning district map shall be determined by use of the scale appearing on the map.

(G) In the case of a district boundary line dividing a lot into 2 parts, the district boundary line shall be construed to be the lot line nearest the district boundary line as shown.

(H) Whenever any street, alley, or other public way is vacated by official action of the town council, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

(I) Where the streets or alleys on the ground differ from the streets or alleys as shown on the zoning district map, the streets or alleys on the ground shall control.

## **ARTICLE 6**

### **"SF-2" SINGLE FAMILY RESIDENTIAL DISTRICT**

#### **Section 6.01. Purpose and Use Regulations.**

The "SF-2" Single Family Residential District is intended to provide for single-family residential uses on lots or tracts of 2 acres or greater. In addition to single-family dwellings, this district permits recreational, religious and educational facilities normally required to provide an orderly and attractive residential area.

#### **Section 6.02. Use Regulations.**

Uses permitted in the SF-2 District are set forth in the Schedule of Permitted Uses (APPENDIX "A") pursuant

to Section 4.02 of this ordinance. Notwithstanding anything herein to the contrary, mobile homes and HUD-Code Manufactured Homes are prohibited.

### **Section 6.03. Height, Yard and Lot Regulations.**

Buildings, yards and lots shall conform to the following requirements:

- (A) Height Regulations. No building or structure shall exceed 35 feet or 2½ stories in height.
- (B) Area Regulations.
  - (1) Size of Lots:
    - (a) *Minimum Lot Area:* Each lot or tract shall have a minimum area of 2 acres (87,120 square feet).
    - (b) *Minimum Lot Width:* The width of a lot shall be not less than 200 feet at the front street building line, nor shall its average width be less than 240 feet. The minimum width of a lot on a cul-de-sac shall be not less than 40 feet at the property line, nor shall its average width be less than 240 feet.
    - (c) *Minimum Lot Depth:* The depth of a lot shall not be less than 200 feet except that a corner lot may have the minimum depth of not less than 180 feet.
    - (d) *Exception.* Where a lot having less area, width, and/or depth than herein required exists in separate ownership upon the effective date of this ordinance, the above regulations shall not prohibit the erection of a single-family dwelling thereon.
  - (2) Size of Yards:
    - (a) *Minimum Front Yard:* There shall be a front yard having a depth of not less than 50 feet. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets. (*See Illustration 6, Appendix "B"*)
    - (b) *Minimum Side Yard:* There shall be a side yard on each side of the lot having a depth of not less than ten percent (10%) of the lot width or 20 feet, whichever is less. A side yard adjacent to a side street shall have a minimum depth of 25 feet. No side yard for allowable non-residential uses shall be less than 25 feet.
    - (c) *Minimum Rear Yard:* There shall be a rear yard having a depth of not less than 50 feet.
  - (3) Lot Coverage: In no case shall more than thirty percent (30%) of the total lot area be covered by the combined area of the main building and accessory buildings.

(C) Creek Preservation. Preservation of natural creeks is encouraged. Therefore, small variances in area regulations of not more than ten percent (10%) may be granted by the planning and zoning commission for lots that are contiguous and adjacent to a creek in a platted subdivision, however the average net area shall not be less than 2 acres per lot.

### **Section 6.04. Miscellaneous Regulations.**

- (A) Antennas.
  - (1) No tower, with or without an antenna, may exceed 70 feet in height.
  - (2) A maximum of one antenna tower per individual homeowner is permitted.
  - (3) A building permit is required prior to erecting a tower and the permit application shall include a structural analysis of the antenna tower system.
  - (4) A tower must be set back from all property lines a distance equal to its height.

(B) Open Storage Regulations. Open storage is prohibited except for materials stored for the land owner's private use or consumption, such as firewood or garden materials, which shall be stored in accordance with applicable setback requirements and screened from view of public streets and neighboring properties.

(C) Parking Regulations. See Article 14 below.

(D) Streets: All streets and roads constructed in an SF-2 District must be constructed of concrete in accordance with the town's subdivision ordinance.

### **Section 6.05. Accessory Buildings and Uses.**

The regulations set forth in this section shall apply to all accessory buildings and uses including tennis courts, swimming pools, and satellite dishes.

(A) Generally. Accessory buildings and uses are permitted provided there is a preexisting main building or primary use on the same lot therewith. Accessory buildings shall not be used for commercial purposes and shall not be rented or leased. The term "accessory use" shall include customary home occupations as herein defined. A garage or servant's quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building.

(B) Accessory Dwellings. When permitted under the provisions of this ordinance, accessory dwellings (including garage/accessory dwellings, servant's/caretaker's quarters, etc.) shall not be used or occupied as a place of abode or residence by anyone other than a bona fide caretaker, servant or farm worker actually and regularly employed by the land owner or occupant of the main building, except the same may be temporarily occupied by a guest or family member of the owner/occupant. Only one accessory dwelling unit shall be allowed on any lot or tract and it shall be clearly incidental to the primary use. Leasing or selling an accessory dwelling is prohibited.

(C) Setbacks.

(1) Detached accessory buildings and uses shall be located behind the front building line and shall be setback a minimum of 20 feet from the nearest lot line.

(2) Garages or carports located and arranged so as to be entered from an interior side yard shall have a minimum setback of 24 feet from the side lot or tract line. Carports or garages arranged to be entered from the side yard, facing a public street, or from a rear or side alley shall have a minimum distance equal to the required yard for the main building or 24 feet, whichever is greater. Carports shall be measured from the posts supporting the roof nearest to the street or alley.

(D) Area Regulations. The total floor area of accessory buildings shall not exceed fifty percent (50%) of the square footage of the livable area of the main building on the premises or five percent (5%) of the lot or tract area, whichever is larger.

(E) Height Regulations. Accessory buildings shall not exceed the height allowed for the main building except by issuance of a specific use permit, which shall not be issued without the board of adjustment first finding that there will be no adverse impact on adjacent properties.

(F) Portable Accessory Buildings. Metal portable accessory buildings having less than 120 square feet of floor area and no more than 8½ feet in total ridge height are permitted provided an 8 foot high solid fence or wall is built on the side and rear lot line to screen the building from adjacent properties. Such metal buildings shall not be used as an enclosed parking area or garage.

(G) Number Allowed. A maximum of 2 accessory buildings are permitted on any lot or tract.

(H) Air Conditioning Equipment. Air conditioning compressors, cooling towers and similar accessory structures shall observe all front, side or rear yards and height regulations specified for accessory buildings.

(I) Swimming Pools. Swimming pools shall be located behind the front building line and in no case shall the pool proper be nearer than 5 feet to any bounding property line of the lot/tract on which it is situated.

**ARTICLE 7**  
**"SF-4" SINGLE FAMILY RESIDENTIAL DISTRICT**

**Section 7.01. Purpose.**

The "SF-4" Single Family Residential District is intended to provide for single-family residential uses on larger lots of 4 acres or greater. This district will be composed of single-family dwellings, together with public schools, churches, parks, drainage facilities and access required by the allowed density.

**Section 7.02. Use Regulations.**

Uses permitted in the SF-4 District are set forth in the Schedule of Permitted Uses (APPENDIX "A") pursuant to Section 4.02 of this ordinance. Notwithstanding anything herein to the contrary, mobile homes and HUD-Code Manufactured Homes are prohibited.

**Section 7.03. Height, Yard and Lot Regulations.**

Buildings, yards and lots shall conform to the following requirements:

- (A) Height Regulations. No building shall exceed 35 feet or 2½ stories in height.
- (B) Area Regulations.
  - (1) Size of Lots.
    - (a) *Minimum Lot Area:* Each lot or tract shall have a minimum area of 4 acres.
    - (b) *Minimum Lot Width:* The width of a lot shall be not less than 250 feet at the front street building line, nor shall its average width be less than 225 feet. The minimum width of a lot on a cul-de-sac shall be not less than 40 feet at the property line, nor shall its average width be less than 225 feet.
    - (c) *Minimum Lot Depth:* The depth of a lot shall not be less than 375 feet except that a corner lot may have the minimum depth of not less than 250 feet.
  - (2) Size of Yards.
    - (a) *Minimum Front Yard:* There shall be a front yard having a depth of not less than 75 feet. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets. *(See Illustration 6, Appendix "B")*
    - (b) *Minimum Side Yard:* There shall be a side yard on each side of the lot having a depth of not less than ten percent (10%) of the lot width or 75 feet, whichever is less.
    - (c) *Minimum Rear Yard:* There shall be a rear yard having a depth of not less than 75 feet.
    - (d) *Exception.* Where a lot having less area, width, and/or depth than herein required exists in separate ownership upon the effective date of this ordinance, the above regulations shall not prohibit the erection of a single-family dwelling thereon.
  - (3) Lot Coverage. In no case shall more than twenty percent (20%) of the total lot area be covered by the combined area of the main buildings and accessory buildings.
- (C) Creek Preservation. Preservation of natural creeks is encouraged. Therefore, small variances in area regulations of not more than ten percent (10%) may be granted by the planning and zoning commission for lots that are contiguous and adjacent to a creek in a platted subdivision, however the average net area shall not be less than 4 acres per lot.

**Section 7.04. Miscellaneous Regulations.**

(A) Antennas: Antennas in the SF-4 District shall comply with Section 6.04(A) of this ordinance.

(B) Open Storage Regulations. Open storage is prohibited except for materials stored for the land owner's private use or consumption, such as firewood or garden materials, which shall be stored in accordance with applicable setback requirements and screened from view of public streets and neighboring properties.

(C) Parking Regulations. See Article 14 below.

(D) Streets: All streets and roads constructed in the SF-4 District must be concrete and constructed in accordance with the town's subdivision ordinance.

**Section 7.05. Accessory Buildings and Uses.** Accessory buildings and uses in the SF-4 District shall comply with Section 6.05 of this ordinance.

**ARTICLE 8**

*(Reserved)*

**ARTICLE 9.**

**"MHD" MANUFACTURED HOME DISTRICT**

**Section 9.01. Purpose.**

It is the intended purpose of the MHD District to provide for a district in which HUD-Code Manufactured Homes, as defined in this ordinance, are permitted for single-family residential use.

**Section 9.02. Use Regulations.**

Uses permitted in the MHD District are set forth in the Schedule of Permitted Uses (APPENDIX "A") pursuant to Section 4.02 of this ordinance. Any parcel, lot, or tract of land that is zoned MHD District is restricted to one HUD-Code Manufactured Home or site built residence per such parcel, lot, or tract. Notwithstanding anything herein to the contrary, mobile homes are prohibited. All ordinances of the town that relate to health, safety and welfare shall apply to the MHD District.

**Section 9.03. Height, Lot, and Yard Regulations.**

Buildings, yards and lots shall conform to the following requirements, except that modifications in this ordinance may be granted if it shall be found by clear and convincing evidence that such modifications are in the public interest, are in harmony with the purposes of this ordinance, and will not compromise or endanger the public health or any property within 200 feet of the lot on which a modification is requested.

(A) Height Regulations. No site built building or structure shall exceed 25 feet.

(B) Area Regulations.

(1) Size of Lots.

(a) *Minimum Lot Area*. Each lot or tract shall have a minimum area of 12,000 square feet.

(b) *Minimum Lot Width*: The minimum width of a lot shall be 50 feet measured at the front street building line.

(c) *Minimum Lot Depth*: The minimum depth of a lot shall be 120 feet.

(2) Size of Yards.

(a) *Minimum Front Yard:* There shall be a front yard having a minimum depth of 25 feet.

(b) *Minimum Side Yard:* There shall be a side yard on each side of the lot having a minimum depth of 10 feet, except that a side yard adjacent to a side street shall have a minimum depth of 25 feet.

(c) *Minimum Rear Yard:* There shall be a rear yard having a minimum depth of 20 feet.

**Section 9.04. Supports, Tie-Downs and Skirting.**

Every HUD-Code Manufactured Home situated in this district must be supported by cinder blocks or concrete piers at a minimum of 8 points under the frame of such home, together with 8 tie-downs. Each such home must be completely skirted within 60 days from the date of installation. Skirting shall be installed on all manufactured home units from the top of the home's frame to grade. Skirting shall totally enclose and secure from view the manufactured home's axles and all required anchors, footings, and piers. All required skirting shall be masonry, and shall be of a color similar to the materials used in the construction of the manufactured home such that it blends with the overall appearance of the home.

**Section 9.05. Nonconforming Uses.**

Section 4.06. of this ordinance is not applicable in the MHD District to the extent it conflicts with the Article 5221f of the Texas Revised Civil Statutes, also known as the Texas Manufactured Housing Standards Act.

**Section 9.06. Miscellaneous Regulations.**

(A) Antennas. Antennas in the MHD District shall comply with Section 6.04(A).

(B) Open Storage Regulations. Open storage is prohibited except for materials stored for a tenant's or land owner's private use or consumption, such as firewood or garden materials, which shall be stored in accordance with applicable setback requirements and screened from view of public streets and neighboring properties.

(C) Parking Regulations. Off-street parking spaces shall be provided in accordance with Article 14 below.

(D) Streets. All streets and roads constructed in the MHD District must be concrete and constructed in accordance with the standards for concrete streets set forth in the town's subdivision ordinance.

**Section 9.07. Accessory Buildings and Uses.** Accessory buildings and uses in the MHD District shall comply with Section 6.05 of this ordinance.

**ARTICLE 10**

**"GB" GENERAL BUSINESS DISTRICT**

**Section 10.01. Use Regulations.**

Uses permitted in the GB District are set forth in the Schedule of Permitted Uses (APPENDIX "A") pursuant to Section 4.02 of this ordinance. Other similar uses may be allowed by specific use permit pursuant to Article 12 but heavy industrial, heavy commercial and high traffic uses are not permitted or encouraged.

**Section 10.02. Building Regulations.**

(A) A minimum of seventy-five percent (75%) of all main building exteriors exclusive of windows and doors shall be constructed of stone, brick, tiles, masonry, or similar materials. Uses of other materials shall be on an exception basis and must be submitted to the commission and town council by way of an architectural rendering showing all 4 elevations of the proposed building. Upon approval, the rendering shall become part of the development plan for that site.

(B) All mechanical equipment shall be screened from public view either by landscaping materials or materials that blend with the building.

(C) Refuse collection areas shall be screened from public view.

(D) Parking and drives to be concrete and constructed in accordance with the standards as adopted by the town.

(E) Storefronts in excess of 60 feet are required to have a minimum 5 foot setback at no greater intervals than 60 feet.

### **Section 10.03. Height Regulations.**

Height to be determined by a ratio of 10 feet in height per 50 foot setback from residential districts but not to exceed 35 feet or 2½ stories in height.

### **Section 10.04. Area Regulations.**

(A) Building Area: The total building area, including accessory buildings, shall not exceed a floor-area to land ratio of 0.40 to 1. (See *Illustration 8, Appendix B*).

(B) Lot Size:

(1) Minimum Lot Area: Each lot or tract shall have a minimum area of 1 acre. Lot coverage of all primary and accessory buildings shall not exceed fifty percent (50%) of the total lot area.

(2) Minimum Lot Width: The minimum width of a lot shall be 50 feet measured at the front street building line.

(3) Minimum Lot Depth: The minimum depth of a lot shall be 150 feet.

(C) Yard Size.

(a) Minimum Front Yard: Minimum 25 feet from the property line.

(2) Minimum Side Yard: Minimum 0 feet from the property line, except that a minimum of 25 feet from the property line shall be required if the side yard is adjacent to property zoned for residential use.

(3) Minimum Rear Yard: Minimum 25 feet from the property line.

### **Section 10.05. Site Plan.**

A site plan must be approved in accordance with Article 13 of this ordinance prior to the issuance of a building permit or use of property in the GB District.

### **Section 10.06. Architectural Elevation Plan.**

Prior to the issuance of a building permit in the GB District, an architectural elevation plan of the building(s) must be approved. The architectural elevation plan shall initially be considered by the planning and zoning commission following submission of an application and payment of all required fees. The applicant shall submit 9 copies of the architectural elevation plan to the town at least 10 days prior to the meeting at which the commission will consider the plan. The commission shall consider the architectural elevation plan based on the proposed use of the site, building signage, and its ability to create a village setting with a rural country style. These considerations shall favor the use of clustered buildings, as opposed to strip-type development, sloping roofs, and the use of overhanging colonnades. Final approval of architectural elevation plans shall abide in the town council as provided in Article 13.

### **Section 10.07. Off-street Loading and Parking.**

See Article 14 of this ordinance.

### **Section 10.08. Accessory Buildings and Uses.**

The regulations set forth in this section shall apply to all accessory buildings and uses in the GB District.

(A) Generally. Accessory buildings and uses customarily associated with uses permitted in the district will be permitted provided there is a preexisting main building or primary use on the same lot therewith.

(B) Setbacks. Detached accessory buildings and uses shall be located behind the front building line and shall comply with all yard or setback regulations applicable to the main building.

(C) Height Regulations. Accessory buildings shall not exceed the height allowed for the main building except by issuance of a specific use permit, which shall not be issued without the board of adjustment first finding that there will be no adverse impact on adjacent properties.

(D) Portable Accessory Buildings. Metal portable accessory buildings having less than 120 square feet of floor area and no more than eight and 8½ feet in total ridge height are permitted provided an 8 foot high solid fence or wall is built on the side and rear lot line to screen the building from adjacent properties. Such metal buildings shall not be used as an enclosed parking area or garage.

(E) Number Allowed. A maximum of 2 accessory buildings are permitted on any lot or tract.

(F) Exterior Construction Standards. Accessory buildings shall comply with all masonry and other exterior construction standards applicable to the main building on the same lot therewith.

(G) Air Conditioning Equipment. Air conditioning compressors, cooling towers and similar accessory structures shall observe all front, side or rear yards and height regulations specified for accessory buildings.

## **ARTICLE 11**

### **"MU" - MUNICIPAL DISTRICT**

#### **Section 11.01. Use Regulations.**

Uses permitted in the MU District are set forth in the Schedule of Permitted Uses (APPENDIX "A") pursuant to Section 4.02 of this ordinance.

#### **Section 11.02. Building Regulations.**

(A) A minimum of seventy-five percent (75%) of all main building exteriors exclusive of windows and doors shall be constructed of stone, brick, tiles, masonry, or similar materials. Uses of other materials shall be on an exception basis and must be submitted to the commission and town council by way of an architectural rendering showing all 4 elevations of the proposed building. Upon approval, the rendering shall become part of the development plan for that site.

(B) All mechanical equipment shall be screened from public view either by landscaping materials or materials that blend with the building.

(C) Refuse collection areas shall be screened from public view.

(D) Parking and drives to be concrete and constructed in accordance with the standards as adopted by the town.

#### **Section 11.03. Height Regulations.**

Height to be determined by a ratio of 10 feet in height per 50 foot setback from residential districts but not to exceed 40 feet in height. Public buildings may be erected to a height not exceeding 60 feet when each of the required yards are increased by one foot for each foot of additional height above the height regulations.

#### **Section 11.04. Area Regulations.**

(A) Building Area: The total building area, including accessory buildings shall not exceed a floor-area-to-land ratio of 0.40 to 1. (See *Illustration 8, Appendix B*).

(B) Lot Area: Each lot shall have a minimum area of 10,890 square feet (¼ acre).

(C) Yard Size.

(1) Front Yard: Minimum 50 feet from the property line.

(2) Side Yard: Minimum 25 feet from the property line. Minimum 50 feet from the boundary of any residential district.

(3) Rear Yard: Minimum 25 feet from the property line. Minimum 50 feet from the boundary of any residential district.

#### **Section 11.05. Site Plan.**

A site plan must be approved in accordance with Article 13 of this ordinance prior to the issuance of a building permit or use of property in the MU District.

#### **Section 11.06. Lighting.**

All parking areas in the MU District which are used after dark shall be illuminated beginning one-half (½) hour after sunset and continuing throughout the hours of use.

### **ARTICLE 12 SPECIFIC USE PERMITS**

#### **Section 12.01. Permit Request and Public Hearing.**

(A) Any individual, partnership, corporation, or group of persons having a proprietary interest in any property, upon proof of such, may petition the planning and zoning commission for a specific use permit for the tract of land that the petitioners have the proprietary interest.

(B) The commission shall have the proper public hearing notices appear in the area newspaper and be sent to the property owners within 200 feet of the property for which the specific use permit is requested.

(C) Following the public hearing, the commission shall make a recommendation for the town council at the properly noticed public hearing where the council shall consider the granting or denial of the specific use permit.

(D) If the council grants the specific use permit, an ordinance amending this zoning ordinance shall be prepared for action by the council at its next regular meeting.

(E) The conditions imposed by the council shall be agreed to in writing by the grantee before any building permit or occupancy permit may be issued.

#### **Section 12.02. Permit Considered Zoning Amendment.**

(A) Each specific use permit granted under the provisions of this article shall be considered as an amendment to the comprehensive zoning regulations applicable to such property. In granting any special use permit, the town council may impose conditions as necessary and which shall be complied with by the grantee before any building permit or occupancy permit may be issued.

(B) Specific use permits may be granted for any period of time.

(C) No specific use permit shall be transferred from one individual, corporation, partnership, or group of persons. No specific use permit shall be transferred from one tract or lot in the town to another tract or lot.

(D) A request for renewal of a specific use permit must be filed with the town secretary at least 90 days prior to its termination.

**Section 12.03. Commission Recommendations Deemed Advisory.**

All recommendations made by the commission to the town council shall be considered advisory in nature and shall not be binding upon the governing body; the town council shall have the sole and final authority to grant or deny any request for specific use permits.

**Section 12.04. Zoning Map to Show Permits.**

When the town council authorizes granting of a specific use permit, the zoning district map shall be amended according to its legend to indicate that the affected area has conditional and limited uses, said amendment to indicate the specific use by an "S" designation.

**Section 12.05. Permit Termination.**

If a lot or tract in the town is subject a specific use permit and is not used for a period of 12 months for the purpose for which the specific use permit was issued, then the specific use permit will automatically terminate by reason of non-use and shall be null and void.

**ARTICLE 13  
PLAN APPROVAL**

**Section 13.01. Site Plans.**

(A) Site Plan Requirements. An approved site plan is required prior to the issuance of a building permit or use of property in the GB District or MU District, or involving a specific use permit, multi-family development, residential subdivision, manufactured home park, nonresidential use or structure, or any development where more than one main building or primary use is proposed on a single lot, building site or tract. The site plan must be drawn to an acceptable scale of not less than 1" = 200 feet, and shall contain those items designated for consideration and approval by the town including:

- (1) The total area, boundaries and dimensions of the proposed development.
- (2) Adjoining property, owners, and zoning.
- (3) Contour lines at one foot intervals.
- (4) Location map.
- (5) Existing and proposed utility lines showing sizes of water and sewer lines.
- (6) Existing and proposed fire hydrants and fire lanes.
- (7) Location of all easements.
- (8) Building setback lines.
- (9) Location and dimensions of buildings.
- (10) Means of ingress and egress.
- (11) Engineering for drainage.
- (12) Areas designated for landscaping and location of exterior lighting.
- (13) Parking area locations and specifications.
- (14) Signature lines for the commission chairman, town engineer, and mayor to signify approval.

(B) Preliminary Site Plan. For the purpose of assisting an applicant in the planning process, a properly designated "preliminary" site plan may be submitted for consideration. Approval of a "preliminary" site plan will not imply approval of all elements of a site plan.

(C) Consideration by Planning & Zoning Commission. The planning and zoning commission will initially consider any required site plan following submission of an application and payment of all required fees. The applicant shall submit 9 copies of the site plan to the town at least 10 days prior to the meeting at which the commission will consider the site plan. The commission shall consider the site plan in accordance with the items designated in this section subsection (A) and in the interest of promoting the public health, safety, order, convenience, prosperity and general welfare.

### **Section 13.02. Final Plan Approval.**

Within 12 months following commission approval of a site plan and, when applicable, an architectural elevation plan, the applicant shall submit to 9 copies and 1 mylar copy of the final site plan, 9 copies of the final architectural elevation plan, when applicable, and 3 copies of the final construction plans to the town for consideration and approval by the town council. The submitted final plans shall be in strict accordance with those approved by the commission including all conditions of approval. In the event that the applicant fails to submit final plans within the 12-month period, the plans approved by the commission shall be considered void and must be resubmitted to the commission along with payment of all appropriate fees.

### **Section 13.03. Approved Plans.**

It shall be unlawful to issue a building permit prior to final approval of a site plan, architectural elevation plan and construction plans, as applicable, by the town council. The mayor and building official, or the town engineer when the plans relate to a residential subdivisions or other multi tract development, shall sign 2 sets of approved final plans in a manner that indicates the plans are approved for construction. One set of the signed plans shall be returned to the developer and one set shall be kept in the official records of the town.

## **ARTICLE 14**

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

#### **Section 14.01. Parking Requirements Based on Use.**

In all districts there shall be provided at the time any building or structure is erected or structurally altered, off-street parking spaces in accordance with the requirements of this section.

(A) General Parking Requirements.

(1) SF-2 and SF-4 Districts. A minimum of 2 enclosed off-street parking spaces for each dwelling unit located behind the front building line, plus additional spaces as may be required for accessory uses.

(2) MHD District. A minimum of 2 off-street parking spaces for each HUD-Code Manufactured Home plus additional spaces as may be required for accessory uses.

(3) GB District. A minimum of one parking space for each 300 square feet of floor area, but not less than 5 parking spaces.

(4) MU District. A minimum of one parking space for each 100 square feet of floor area, but not less than 5 parking spaces.

(B) Special Parking Requirements.

(1) Church or rectory. One parking space for each 3 seats in the main auditorium.

(2) Private club, lodge, country club or golf club. One parking space for each 150 square feet of floor area or for every 5 members, whichever is greater.

(3) Sports club. One parking space for each 150 square feet of floor area or for every 5 members, whichever is greater.

(4) Retail Store except as otherwise specified herein.

<u>Gross Leasable Area</u>	<u>Parking Requirements</u>
0 - 2,499 sq.ft.	10 spaces per 1,000 sq.ft.
2,500 - 9,999 sq.ft.	7.5 spaces per 1,000 sq.ft.
≥10,000 sq.ft.	5.5 spaces per 1,000 sq.ft.

(5) School, public, parochial or private. One parking space for each 4 seats in the auditorium or main assembly room, or one space for each classroom plus 6 spaces, whichever is greater.

(6) School, trade or commercial. One parking space for each 4 seats in the main auditorium or 8 spaces for each classroom, whichever is greater.

(7) Restaurant or cafeteria. One parking space for each 3 dining seats.

#### **Section 14.02. Rules for Computing Number of Parking Spaces.**

In computing the number of parking spaces required for each of use above, the following rules shall govern:

(A) "Floor area" shall mean the gross floor area of the specific use.

(B) In the case of mixed uses, the parking spaces required shall equal the sum of the requirements for the various uses computed separately.

(C) Where fractional spaces result, the parking spaces required shall be constructed to the nearest whole number.

(D) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.

#### **Section 14.03. Minimum Distance for Off-street Parking.**

(A) Ninety Degree (90°) Angle Parking: Each ninety degree (90°) angle parking space shall be not less than 9 feet wide nor less than 18 feet in length. Maneuvering space shall be in addition to parking space and shall be not less than 24 feet perpendicular to the building or parking line.

(B) Sixty Degree (60°) Angle Parking: Each sixty degree (60°) angle parking space shall be not less than 9 feet wide perpendicular to the parking angle nor less than 18 feet in length when measured at right angles to the building or parking line. Maneuvering space shall be in addition to parking space and shall be not less than 20 feet perpendicular to the building or parking line.

(C) Forty-five Degree (45°) Angle Parking: Each forty-five degree (45°) angle parking space shall be not less than 9 feet wide perpendicular to the parking angle nor less than 18 feet in length when measured at right angles to the building or parking line. Maneuvering space shall be in addition to parking space and shall be not less than 18 feet perpendicular to the building or parking line.

#### **Section 14.04. Parking Prohibitions.**

(A) No parking space, garage or carport or other vehicle storage space or structure located on private property in a residential district shall be used for the storage of any truck, truck trailer, or van with a manufacturer's rated capacity exceeding 1½ tons, or any tractor, tractor trailer, farm trailer, or other agricultural equipment.

(B) It shall be unlawful for any person to park or permit to remain parked on a public street within the town any truck, truck trailer, or van with a manufacturer's rated capacity exceeding 1½ tons, or any tractor, tractor trailer, farm trailer, or other agricultural equipment, between the hours of 6:00 p.m. and 7:00 p.m., except when said motor vehicle or equipment is engaged in loading or unloading.

(C) No boat, boat trailer, "camper trailer," motor home or other such recreational vehicle allowed as an accessory use shall be parked or stored within the required front yard.

**Section 14.05. Off-Street Loading Space.**

Every building or part thereof erected or occupied for retail business, service, manufacturing, storage, warehousing, hotel, mortuary, or other use similarly involving the receipt or distribution by vehicles of materials or merchandise, shall provide and maintain on the same premises loading space in accordance with the requirements of this section.

(A) For retail, commercial, sales, service, or industrial use buildings and establishments, off-street loading facilities shall be provided in accordance with the following schedule:

<u>Square Feet of Gross Floor Area</u>	<u>Minimum Required Spaces or Berths</u>
0 to 5,000	None
5,000 to 15,000	1
15,000 to 40,000	2
40,000 to 65,000	3
65,000 to 100,000	4
each additional 50,000	1 additional

(B) For office buildings, restaurants, and similar establishments, off-street loading facilities shall be provided in accordance with the following schedule:

<u>Square Feet of Gross Floor Area</u>	<u>Minimum Required Spaces or Berths</u>
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
100,000 to 200,000	3
each additional 200,000	1 additional

(C) In the GB District each required loading space shall have a minimum size of 12 feet by 60 feet (12' x 60') with a vertical clearance of at least 14 feet, together with access and maneuvering areas.

(D) No loading facilities may be located facing any street.

(E) Loading facilities located on the side of a building but not facing a street shall be set back from the front property line a minimum distance of 60 feet.

**ARTICLE 15  
PERFORMANCE STANDARDS**

**Section 15.01. Application.**

All uses in all districts shall conform in operation, location, and construction to the performance standards hereinafter specified.

**Section 15.02. Noise.**

No use shall be located or operated in any district that emits noise at a sound level in excess of the decibel limits specified in the Octave Band Frequency groups table below when measured at the bounding property line or at any point beyond the lot or tract on which the use or operation is located:

(A) Octave Band Frequencies:

<u>Octave Band Cycles Per Second</u>	<u>Maximum Permitted Sound Pressure Level, Decibels</u>
20 - 75	97
75 - 150	76
150 - 300	70
301 - 600	65
601 - 1,200	63
1,201 - 2,400	58
2,401 - 4,800	55
4,801 - 10,000	53

(B) Corrections: The following corrections shall be made to the preceding table of Octave Band Frequency groups in determining compliance with the noise level standards:

<u>Type of Operation or Character of Noise</u>	<u>Correction in Decibels</u>
Noise source operates less than 20% of any one-hour period.....	Plus 5*
Noise source operates less than 5% of any one-hour period.....	Plus 10*
Noise source operates less than 1% of any one-hour period.....	Plus 15*
Noise of impulsive character (hammering, etc.).....	Minus 5
Noise of periodic character (hum, screech, etc.).....	Minus 5
Noise emitted at night.....	Minus 7

\* *Apply one correction only*

(C) "Daytime" shall refer to the hours between 6:00 a.m. and 9:00 p.m. on any given day.

(D) Noise shall be measured under this section using a sound level meter or octave band analyzer meeting the applicable standards prescribed by the American Standards Association.

(E) Exemptions: The following uses and activities shall be exempt from the noise level regulations herein specified:

- (1) Noises not directly under control of the property user.
- (2) Noises emanating from construction and maintenance activities during daytime hours.
- (3) Noises of safety signals, warning devices, and emergency pressure relief valves.
- (4) Transient noise of moving sources such as automobiles, trucks, airplanes, and railroads.

**Section 15.03. Smoke and Particulate Matter.**

No operation or use in any district shall cause, create, or allow the emission for more than 33 minutes in any one hour of air contaminants which at the emission point or within the bounds of the property are in violation of air quality or pollution control standards adopted by the Texas Commission on Environmental Quality.

**Section 15.04. Odorous Matter.**

(A) No use shall be located or operated in any district which involves the emission of odorous matter from a source of operation where the odorous matter exceeds the threshold at the bounding property line or any point beyond the tract on which such use or operation is located.

(B) The odor threshold as herein set forth shall be determined by observation by a person or persons. In any case, where uncertainty may arise or where the operator or owner of an odor emitting use may disagree

with the enforcing officer or where specific measurement of odor concentration is required, the method and procedures as specified by American Society for Testing Materials (A.S.T.M.D.) 1391-56 entitled "Standard Method for Measurement of Odor in Atmospheres" shall be used and A.S.T.M.D. 1391-57 is hereby incorporated by reference.

**Section 15.05. Fire and Explosive Hazard Material.**

(A) No use involving the manufacture or storage of compounds or products which decompose by detonation shall be permitted except that chlorates, nitrates, perchlorates, phosphors, and similar substances and compounds in small quantities for use by industry, school laboratories, druggists, or wholesalers may be permitted when approved by the Collin County Fire Marshall.

(B) The storage and use of all flammable liquids and materials such as pyroxylin plastics, nitrocellulose film, solvents, and petroleum products shall be permitted only when such storage or use conforms to the town's building and fire codes.

**Section 15.06. Toxic and Noxious Matter.**

No operation or use shall emit a concentration across the bounding property line of the tract on which such operation or use is located of toxic or noxious matter which will exceed ten percent (10%) of the concentration (exposure) considered as the threshold limit for an industrial worker as such standards are set forth by the Texas State Department of Health in "Threshold Limit Values Occupational Health Regulations No. 3," which is hereby incorporated by reference.

**Section 15.07. Vibration.**

No operation or use shall at any time create earthborn vibration which, when measured at the bounding property line of the source of operation, exceeds the limits of displacement set forth in the following table in the frequency ranges specified:

<u>Frequency Cycles Per Second</u>	<u>Displacement in Inches</u>
0 to 10	0.0010
10 to 20	0.0008
20 to 30	0.0005
30 to 40	0.0004
40 and over	0.0003

**Section 15.08. Lighting and Glare.**

No use or operation in any district shall be located or concentrated so as to produce intense glare or direct illumination across the bounding property line for a visible source of illumination nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.

**Section 15.09. Waste Materials.**

No use or operation shall discharge into the open, onto the ground, or into any drainageway, open pit, or pond any waste materials, liquids, residue, or by-products for storage, decomposition, disposal, or fill unless approved by the building official.

**ARTICLE 16  
HEIGHT AND AREA EXCEPTIONS**

**Section 16.01. Applicability.**

The height and area exceptions set forth in this article shall apply to all districts. Any exceptions and modifications to height and area regulations shall be by specific use permit only.

### **Section 16.02. Height Exceptions.**

In the districts where the height of buildings is restricted to 2½ stories, cooling towers, roof gables, chimneys and vent stacks may extend for an additional height not to exceed 40 feet above the average grade line of the building. Water stand pipes and tanks, church steeples, domes and spires, school buildings and institutional buildings may be erected to exceed 2½ stories in height, provided that one additional foot shall be added to the width and depth of front, side and rear yards for each foot that such structures exceed the maximum permitted height.

### **Section 16.03. Area Exceptions.**

#### **(A) Front Yards.**

(1) Where the frontage on one side of a street between two intersecting streets is divided by two or more zoning districts, the front yard shall comply with the requirements of the most restrictive district for the entire frontage. (See *Illustration 7, Appendix "B"*)

(2) Where a building line has been established by plat or ordinance approved by the planning and zoning commission and enacted by the town council and such line requires a greater or lesser front yard setback than is prescribed by this ordinance for the district in which the building line is located, the required front yard shall comply with the building line established by such ordinance or plat.

(3) The front yard shall be measured from the property line 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 4 feet. (See *Illustration 5, Appendix "B"*)

(4) Gasoline service station pump islands may not be located nearer than 18 feet to the street right-of-way line except as specifically allowed on an approved site plan.

#### **(B) Side Yards.**

(1) Every part of the required side yard shall be open and unobstructed except for accessory buildings as permitted herein, and the ordinary projections of window sills, belt courses, and other architectural features projecting not to exceed 12 inches into the side yard, and roof eaves projecting not to exceed 24 inches into the required side yard.

(2) A single-family attached dwelling shall provide a minimum required side yard adjacent to a side street of 30 feet, and no complex of attached single-family dwellings shall exceed 150 feet in length. A minimum required side yard of 10 feet shall be provided at the end of each single-family attached dwelling complex so that the end of any two adjacent building complexes shall be at least 20 feet apart.

#### **(3) Rear Yards.**

(a) No main building may be constructed nearer than 20 feet to the rear property line or rear easement line, if such easement exists by plat or ordinance.

(b) No accessory building or structure, except fences, may be erected within 3 feet of any rear or side property line, or be located within any easement, if such easement exists by plat or ordinance.

## **ARTICLE 17 MODULAR HOME REGULATIONS**

### **Section 17.01. Compliance with Regulations.**

(A) Modular homes shall conform with all zoning, subdivision and other town regulations and requirements. Except as provided hereinafter, all ordinances and regulations applicable to modular homes shall not be enforced or applied in a manner that is more restrictive than that required for a new single-family

dwelling constructed on-site. All requirements and regulations shall be reasonably and uniformly applied and enforced without distinction as to whether the housing or buildings are manufactured or are constructed on-site, provided, however, that a modular home shall:

(1) have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the modular home is proposed to be located, as determined by the most recent certified tax appraisal roll;

(2) have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the modular home is proposed to be located;

(3) comply with all aesthetic standards, building setbacks, side and rear yard offsets, subdivision regulations, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings in the zoning district in which the modular home is proposed to be located; and

(4) be securely fixed to a permanent foundation.

(B) For purposes of this section, "value" means the taxable value of the modular home and the lot after installation of the housing.

#### **Section 17.02. Inspections.**

(A) All applications and permits required for site-built houses and residential structures shall be required for modular homes. Inspections shall be conducted at the permanent site where the structure is intended to be located. The building official shall inspect all construction involving modular homes to be located in the town to ensure compliance with designs, plans and specifications, including inspection of:

(1) the construction of the foundation system; and

(2) the erection and installation of the modules or modular components on the foundation.

#### **Section 17.03. Permits.**

(A) Any person proposing to locate a modular home within the territorial limits of the town shall:

(1) comply with the application and permitting requirements imposed by all building and construction codes heretofore adopted by the town, as such may from time to time be amended and, as a part of the application and permitting process, the person shall submit a complete set of designs, plans, and specifications bearing the stamp of approval of the Texas Industrialized Building Code Council for each installation of industrialized housing or buildings in the town;

(2) obtain all applicable permits and licenses prior to installation at the building site;

(3) demonstrate that all modules or modular components bear an approved decal or insignia indicating inspection by the Texas Department of Licensing and Regulation, as required by rules adopted by the Texas Commission of Licensing and Regulation;

(4) comply with all procedural requirements established for the inspection of:

(a) the erection and installation of modular homes to be located in the town, to ensure compliance with mandatory building codes and rules adopted by the Texas Commission of Licensing and Regulation and/or Texas Industrialized Building Code Council; and

(b) all foundation and other on-site construction, to ensure compliance with approved designs, plans, and specifications.

(B) Any person constructing, locating or erecting a modular home in the town shall be subject to a final inspection by the town prior to occupancy and no person shall occupy, inhabit or otherwise use a modular home or industrialized housing unit unless and until a certificate of occupancy has first been issued.

**ARTICLE 18**  
**FENCING AND SCREENING REGULATIONS**

**Section 18.01. Purpose.**

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

**Section 18.04. Application.** This article shall govern any screening wall or fence that is erected or required under the provisions of this ordinance along the common boundary between any residential and nonresidential district. For purposes of this article, the MHD District is considered a nonresidential district or use. This article shall also govern residential fences.

**Section 18.03. Nonresidential Screening.**

- A. A screening fence or wall of not less than 6 feet or more than 8 feet in height shall be erected on the property line separating a nonresidential district or use that sides or backs upon a single-family residential district. The purpose of the screening wall or fence is to provide a visual and protective barrier between the properties. A "screening wall" or "screening fence" shall consist of a barrier of stone, brick, pierced brick or block, uniformly colored wood, or other permanent material of equal character, density, and acceptable design, at least 6 feet in height, where the solid area equals at least sixty-five percent (65%) of the wall surface, including an entrance gate or gates; or foliage of an acceptable type and of a density that will not permit through passage; or an acceptable combination of these materials. Grand entryway features into subdivisions from an arterial road shall be located on private property, and shall be owned and maintained by a private entity. Such features shall not extend over a public right-of-way and shall be limited to a height of 10 feet above grade unless otherwise approved on the final site plan by the town council after recommendation for approval by the planning and zoning commission. All fences/walls, other than private wood fences on residential lot/tracts, which shall only require a fence permit from the town, and subdivision entryway features shall be properly engineered, and shall be approved by the town engineer and town council.
- (1) Alternative equivalent screening may be approved through the site plan approval process. A permitted living plant screen shall be allowed a maximum time of 18 months to attain the required height and screening characteristics specified above, and such screens shall be designed to satisfy this requirement.
  - (2) All approved screening walls or visual barriers must be in place prior to the issuance of a certificate of occupancy. All screening walls or visual barriers shall be permanently and continually maintained in a neat and orderly manner as a condition of use. This condition may be noted on the certificate of occupancy, which may be revoked by the building official for failure to adequately maintain such screening wall or visual barrier.
- B. In nonresidential districts, no screening fence or wall shall be erected in any front yard or side yard which is adjacent to a public street unless the fence/wall is required to screen the development from an adjacent residential area. In this case, the screening fence/wall shall be extended out to the street right-of-way line by the developer or owner and the fence/wall shall be finished on both sides in a manner/color that is compatible to the exterior finish materials used on the main buildings. Screening fences/walls shall be placed such that they do not impede visibility for vehicles entering or exiting the nonresidential district, lot, or tract.
- C. All screening fences and walls require permits.
- D. When permitted under this ordinance, open storage of materials, commodities or equipment shall be screened with a minimum 6-foot screening fence or wall, and shall not be visible from the street or from adjacent property.

- E. Refuse storage areas which are not within a screened rear service area and which are visible from a public right-of-way or residential district shall be visually screened by a minimum 6-foot solid masonry wall on at least three sides. The fourth side, which is to be used for garbage pickup service, may provide an optional gate to secure the refuse storage area. Alternate equivalent screening methods may be approved through the site plan approval or specific use permit process. Each refuse facility shall be located so as to facilitate pickup by refuse collection agencies. Adequate reinforced paved areas shall be provided for refuse facilities and their approaches for loading and unloading.

**Section 18.04. Residential Fences.**

- A. Any fence or wall located to the rear of the minimum required front yard line shall not exceed 8 feet in height and may be constructed of wood, wrought iron, and any new and innovative materials such as plastics, PVCs, metal panel or metal slat, cementitious fiber board (e.g., "WoodCrete"), and other similar materials may be approved for use by the planning and zoning commission if the material is proven to be sturdy, durable and relatively maintenance-free.
- B. All fences require permits. Except as provided by Subsection E below, no fence or wall shall be permitted within the required front yard of any single-family residential lot/tract which is adjacent to a public street. No residential fence shall be closer than 15 feet to a public street except in cases where the side or rear building line of the yards on continuous corner lot/tracts adjoin (i.e., the side yard lot/tract is not a key corner lot/tract), the fence may be constructed out to the property line of said side yard such that the street side yard may be included as part of the lot/tract's back yard area.
- C. Above-ground electrical fencing (does not include underground "virtual fencing" which is permitted), wire mesh (such as hog wire, chicken wire) and barbed wire are prohibited as perimeter fencing except for containment of farm animals on parcels of 10 or more acres.
- D. Gates designed for vehicular access shall be set back from the property line a minimum of 24 feet and shall be no closer than the front building line.
- E. Special purpose fencing, such as fencing around tennis courts, is permitted
- F. No back to back fencing allowed.

**ARTICLE 19  
BOARD OF ADJUSTMENT**

**Section 19.01 Definition.**

The terms "board" and "board of adjustment" when used in this ordinance shall be construed to mean the planning and zoning commission acting as board of adjustment of the town.

**Section 19.02 Organization and Procedure.**

- A. Membership: The board shall consist of five (5) citizens as full-time members of the board and four (4) citizens as alternate members of the board who shall serve in the absence of one or more regular members when requested to do so by the town mayor. Each board member and alternate board member are to be appointed or reappointed by the mayor and confirmed by the town council for staggered terms of two (2) years, respectively. At least one (1) member of the board shall be a member of the commission and his term shall expire at the same time as his term on such commission. Each member of the board shall be removable for just cause by the town council upon written charges and after public hearing. Vacancies shall be filled by the town alternate member whose term becomes vacant. The board shall elect its own chairman, who shall serve for a period of one (1) year or until his successor is elected.
- B. Meetings: Meetings of the board shall be held at the call of the chairman and at such times as the board may determine.

- C. Hearings: The hearings of the board shall be public, however, the board may go into executive session for discussion but not for a vote on any case before it. The board shall hear the intervention of any owner or property adjacent to, in the rear of, or across the street from a lot as to which the granting of any building permit is pending, and shall also hear any other parties in interest. All hearing are to be heard by at least four (4) members of the board.
- D. Rules and Regulations: The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such 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 public record. The board shall act by resolution in which four (4) members must concur. The board shall adopt from time to time such additional rules and regulations as it may deem necessary to carry into effect the provisions of this ordinance, and shall furnish a copy of the same to the building inspector, all of which rules and regulations shall operate uniformly in all cases. All of its resolutions and orders shall be in accordance therewith.

### **Section 19.03. Appeals.**

(A) Procedure: Appeals may be taken to and before board by any person aggrieved, or by any officer, department, board, or bureau of the town. Such appeal shall be made by filing with the office of the board a notice of appeal and specifying the grounds thereof. The office or department from which the appeal is taken shall forthwith transmit to the board all of the papers constituting the records upon which the action appealed from was taken.

(B) Stay of Proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from, unless the building inspector shall certify to the board that, by reason of facts in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of equity, after notices to the office from whom the appeal is taken and on due cause shown.

(C) Notice of Hearing on Appeal: The board shall fix a reasonable time for the hearing on the appeal or other matter referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred feet (200') or less of street frontage of any point of the lot or portion thereof on which a variation is desired, and to all other persons deemed by the board to be affected thereby, such owners and persons being determined according to the current rolls of the town depositing of such written notices in the mail shall be deemed sufficient compliance therewith.

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

### **Section 19.04. Powers and Duties of Board.**

(A) Subpoena Witnesses, Etc.: The board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents, under such regulations as it may establish.

(B) Appeals Based on Error: The board shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the building inspector in the enforcement of this ordinance.

(C) Special Exceptions: The board shall have the power to hear and decide special exceptions to the terms of this ordinance upon which the board is required to pass as follows or elsewhere in this ordinance:

- (1) Permit the erection and use of a building or the use of premises for railroads if such uses are in general conformance with any Master Plan and present no conflict or nuisance to adjacent properties.

(2) Permit a public utility or public service structure or building in any district with a ground area or of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety, or general welfare.

(3) Grant a permit for the extension of a use, height, or area regulation into an adjoining district which divides a lot into a single ownership on the effective date of this ordinance.

(4) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty percent (50%) of its fair market value, where the board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.

(5) Waive or reduce the parking and loading requirements in any of the districts, whenever the character or use of the building is such as to make unnecessary the full provision or parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

(6) Determine, in cases of uncertainty, the classification of any use not specifically named in this ordinance.

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

(1) Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical, architectural consideration, or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare.

(2) Authorize upon appeal, whenever a property owner can show that a strict application of the terms of this ordinance relating to the construction or alterations of buildings or structures will impose upon him unusual and practical difficulties or particular hardship, such variations from the strict application of the terms of this ordinance as are in harmony with its general purpose and intent, but only when the board is satisfied that a granting of such variation will not merely serve as a convenience to the applicant, but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variance from the comprehensive plan as established by this ordinance and, at the same time, the surrounding property will be properly protected.

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

**APPENDIX "A"**  
**TO**  
**COMPREHENSIVE ZONING ORDINANCE NO. 2005-11**

**SCHEDULE OF PERMITTED USES**

In this schedule, uses expressly permitted are indicated by a "✓" and uses permitted by Specific Use Permit only are indicated by a "(S)" for each district.

<b>Permitted Uses:</b>	<b>SF-2</b>	<b>SF-4</b>	<b>MHD</b>	<b>GB</b>	<b>MU</b>
Accessory building or use	✓	✓	✓	✓	✓
Agricultural use <sup>1</sup>	✓	✓	✓	✓	✓
Art gallery or museum				✓	✓
Automobile repair garage				✓	
Automobile service station (gas station)				✓	
<b>Bakery and confectionery works</b>				✓	
Bank, saving and loan, or credit union				✓	
Barber shops and beauty salons				✓	
Book, card, and stationery stores				✓	
Bus terminals				✓	✓
Car wash				✓	
Carpentry, painting, plumbing, welding, or tin-smithing shops (no outside display or storage)				✓	
Child care center in place of residence	(S)	(S)			
Church or rectory	(S)	(S)		✓	
Clothing and shoe stores				✓	
Colleges, universities or other institutions of higher learning	(S)	(S)		✓	
Commercial amusement, indoors				✓	
Commercial amusement, outdoors				✓	
Customary home occupation <sup>2</sup>	✓	✓	✓		
Day care center				✓	
Driving range		(S)		✓	
Feed store				✓	
Fire station				✓	✓
Florist or plant shop (no outside display or storage)				✓	
Furniture, home furnishings and equipment stores				✓	
Gift shop.				✓	

<b>Permitted Uses (Cont'd):</b>	<b>SF-2</b>	<b>SF-4</b>	<b>MHD</b>	<b>GB</b>	<b>MU</b>
Golf course or country club	(S)	(S)		✓	
Grocery or food store				✓	
Grocery or food store with gasoline sales				✓	
Hardware stores, retail sales only				✓	
Household appliance service and repair				✓	
Hotel or motel				✓	
HUD-Code Manufactured Homes			✓		
Laundromat (or self-serve washateria)				✓	
Libraries, public				✓	✓
Light manufacturing				✓	
Medical facilities				✓	
Miniature golf course		(S)		✓	
Mining, sand, gravel or stone				(S)	
Municipal animal pound					✓
Municipal parks, playgrounds, community buildings, auditoriums and recreational facilities	✓	✓	✓	✓	✓
Nursery				✓	
Office, professional, general administrative				✓	
Office center				✓	
Pet shops, retail sales only				✓	
Pet memorial sales and animal crematory <sup>3</sup>				✓	
Police station				✓	✓
Private and charter schools				✓	
Private club or lodge		(S)		✓	
Retail stores, general				✓	
Real estate sales office <sup>4</sup>	✓	✓			
Restaurant or cafeteria				✓	
Restaurant, drive-in type				✓	
Sanitary landfill					✓
School, private <sup>5</sup>	(S)	(S)	(S)	✓	
School, public or parochial	(S)	(S)	(S)	✓	
School, trade or commercial				✓	
Servant's quarters		✓			
Sewage treatment plant or pumping station, public					✓
Single-family dwellings	✓	✓	✓	✓	

<b>Permitted Uses (Cont'd):</b>	<b>SF-2</b>	<b>SF-4</b>	<b>MHD</b>	<b>GB</b>	<b>MU</b>
Sports clubs (excluding pistol and rifle ranges)		(S)		✓	
Stable, commercial and riding schools	(S)	(S)		✓	
Stable, private	(S)	(S)		(S)	
Temporary buildings <sup>6</sup>	✓	✓	✓	✓	✓
Veterinarian clinic				✓	
Water treatment plant, storage facility or pumping station, public					✓
Any use or public building to be erected or used by the town government	✓	✓	✓	✓	✓

Restrictions:

<sup>1</sup> Agricultural use permitted on minimum 10 acre lots pursuant to Section 4.03 of this ordinance.

<sup>2</sup> Provided that no person, other than a member of the owner's family shall be employed or work in or at such home occupation

<sup>3</sup> Pursuant 30 TAC § 330.75; Ord. No. 04-04-27, § 1, adopted April 27, 2004.

<sup>4</sup> Permitted during the development of residential subdivisions for a period not to exceed two (2) years.

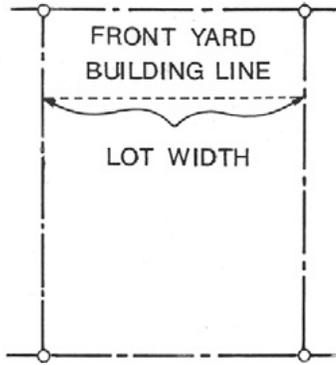
<sup>5</sup> Must be accredited by State of Texas or equivalent accreditation unit.

<sup>6</sup> Temporary buildings permitted for uses incidental to construction work on the premises and shall be removed upon the completion or abandonment of construction work.

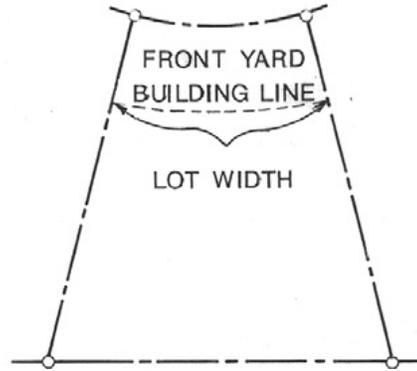
APPENDIX "B"  
TO  
COMPREHENSIVE ZONING ORDINANCE NO. 2005-11

ILLUSTRATIONS

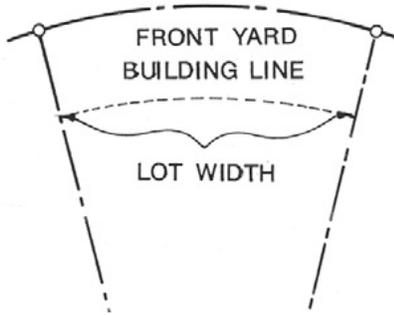
ILLUSTRATION 1: LOT WIDTH



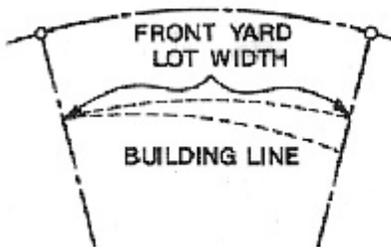
(A)



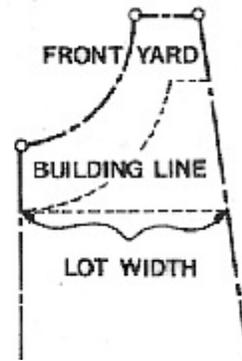
(B)



(C)

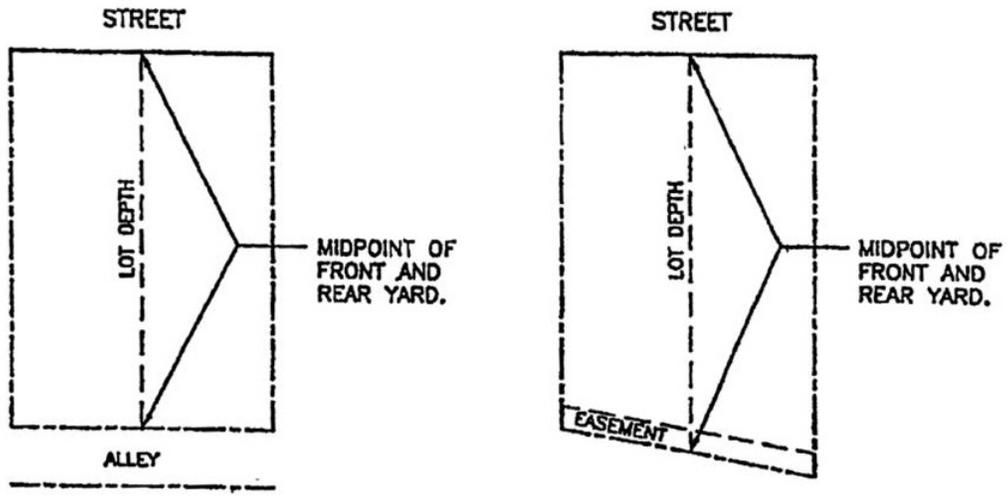


(D)



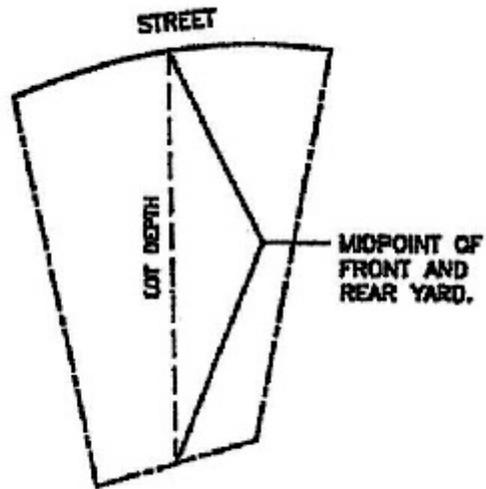
(E)

**ILLUSTRATION 2: LOT DEPTH**



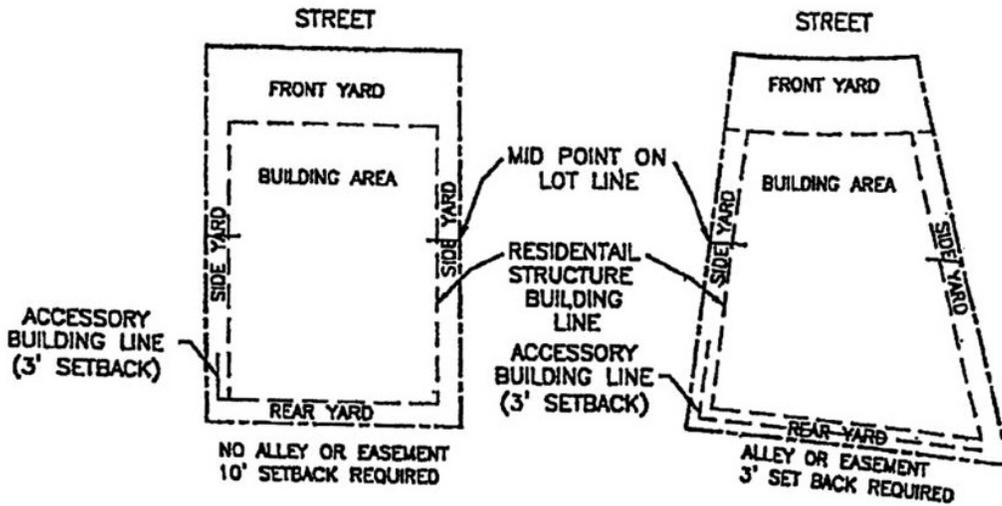
(A)

(B)

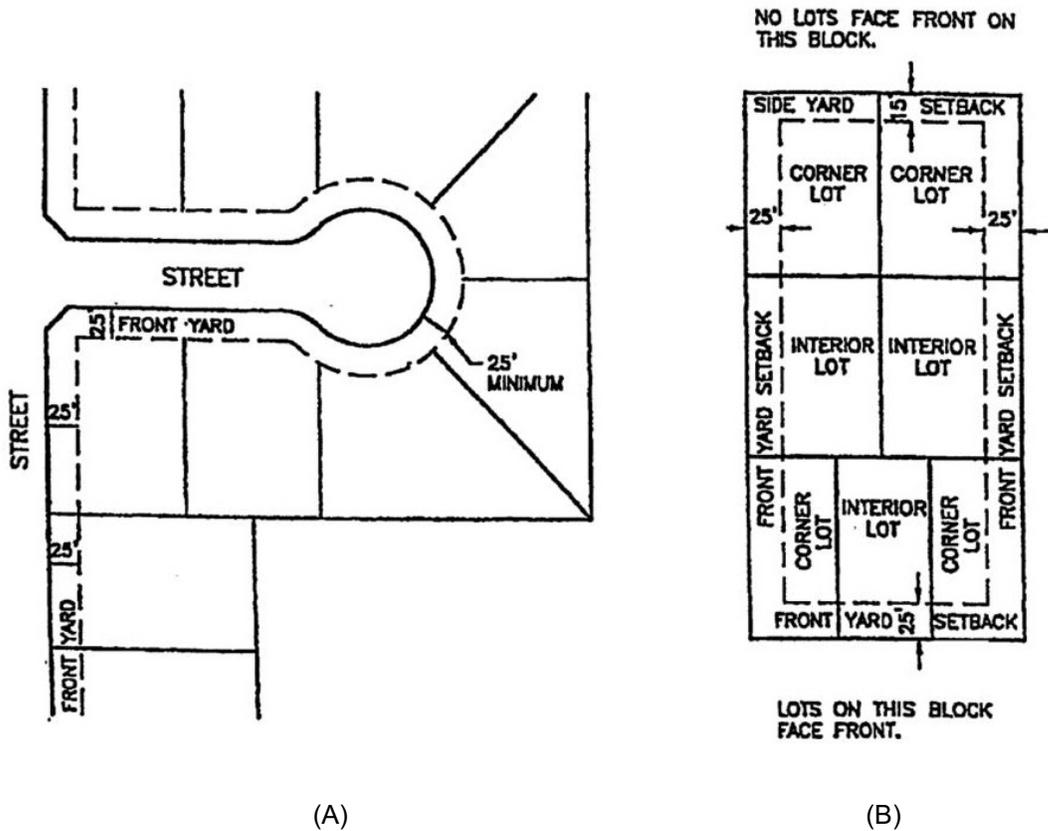


(C)

**ILLUSTRATION 3: YARDS**

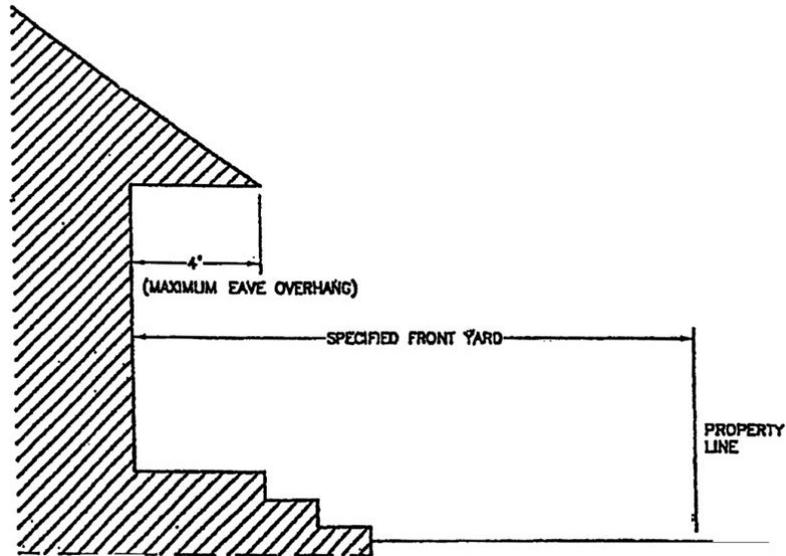


**ILLUSTRATION 4: CORNER LOTS**

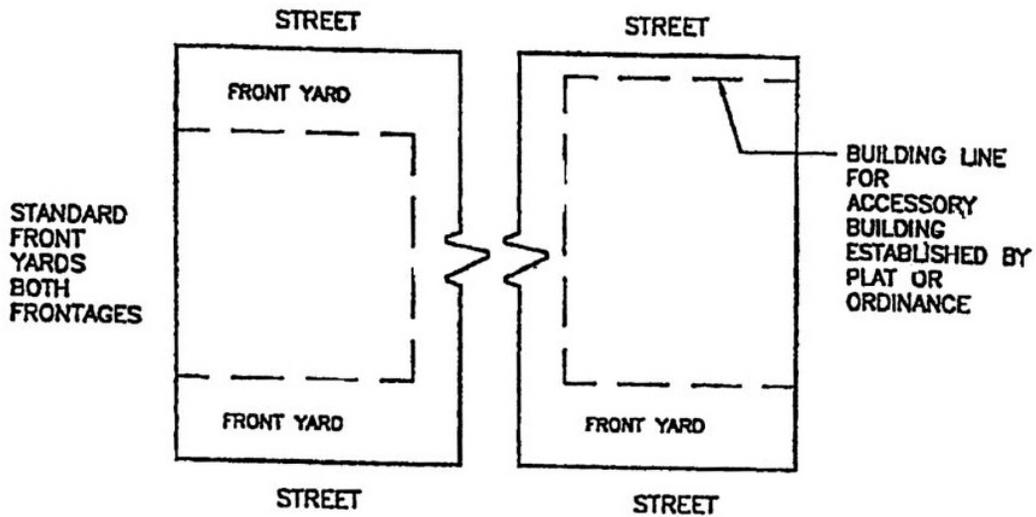


NOTE: Actual dimensions may vary. Reference ordinance text for required setbacks.

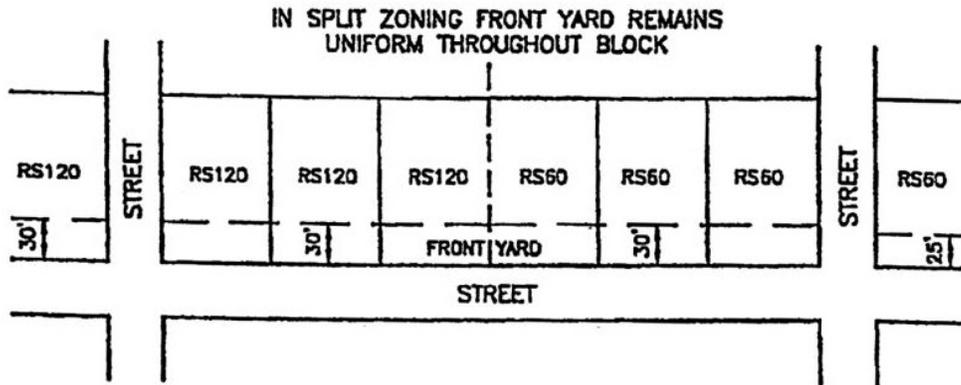
**ILLUSTRATION 5: METHOD OF MEASURING FRONT YARD**



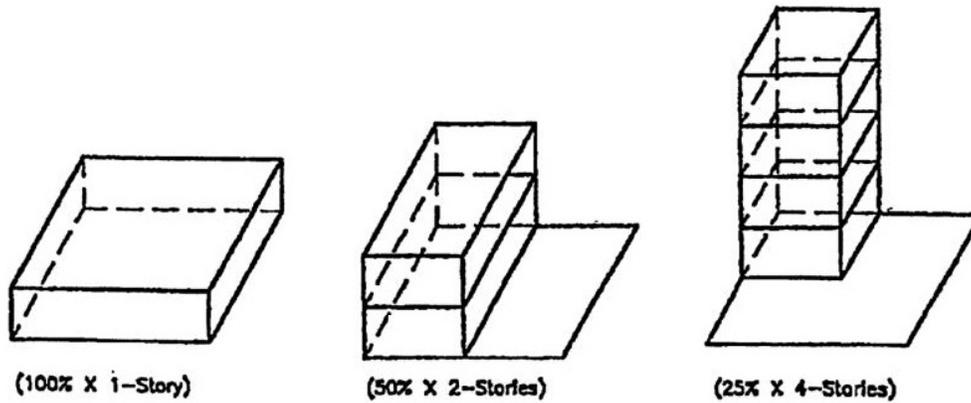
**ILLUSTRATION 6: DOUBLE FRONTAGE LOTS**



**ILLUSTRATION 7: FRONT YARD WHERE ZONING CHANGES IN A BLOCK**



**ILLUSTRATION 8: FLOOR AREA RATIO**



EACH DRAWING ILLUSTRATES FLOOR AREA RATIO OF ONE TO ONE (1:1)