

**TOWN OF LAKEWOOD VILLAGE  
ZONING ORDINANCE 19-02**

**AN ORDINANCE ADOPTING A COMPREHENSIVE ZONING ORDINANCE FOR THE TOWN OF LAKEWOOD VILLAGE, TEXAS; ESTABLISHING ZONING DISTRICTS, REGULATING AND RESTRICTING THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR RESIDENTIAL AND OTHER PURPOSES, THE DENSITY OF POPULATION, THE ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, REPAIR AND USE OF BUILDINGS STRUCTURES AND LAND WITHIN SUCH DISTRICTS, INCLUDING THE HEIGHT, NUMBER OF STORIES, SIZE AND APPEARANCE OF BUILDINGS AND OTHER STRUCTURES; REGULATING LANDSCAPING AND THE SIZE OF YARDS AND OTHER OPEN SPACES; PROVIDING PARKING REQUIREMENTS; PROVIDING FOR THE REGULATION OF NONCONFORMING USES AND FOR THE AMORTIZATION THEREOF; ADOPTING AN OFFICIAL ZONING MAP; PROVIDING FOR THE ISSUANCE OF CERTIFICATES OF OCCUPANCY AND BUILDING PERMITS; DEFINING CERTAIN WORDS AND PROVIDING FOR THE INTERPRETATION OF THE ORDINANCE; PROVIDING FOR AMENDMENTS AND CHANGES PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES AND REPEALING ORDINANCE NO. 14-04 AS AMENDED; PROVIDING A SEVERABILITY CLAUSE; PRESCRIBING PENALTIES FOR VIOLATIONS OF THE PROVISIONS OF THE ORDINANCE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Chapter 211 of the Local Government Code, the Town of Lakewood Village (“Town”) has the authority to adopt a Comprehensive Zoning Ordinance and map regulating the location and use of buildings, structures, and land for business, industry, residence and other purposes; and

**WHEREAS**, the zoning regulations and districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting the health, safety, morals and general welfare of the Town; and

**WHEREAS**, the zoning regulations and districts have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to ensure adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements; and

**WHEREAS**, the zoning districts have been created with fair and reasonable consideration, among other things, for the character of each particular section and its peculiar suitability for particular uses; and thereby conserve the value of land and buildings in each particular section; and with a view of insuring the harmonious and appropriate use of all property and to prohibit the inharmonious and inappropriate use of all property and thereby promote the general good and welfare of the public; and

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKEWOOD VILLAGE, TEXAS, THAT:**

**Section 1: Findings**

The findings set forth above are incorporated as if fully set forth herein.

**Section 2: Adoption**

The Comprehensive Zoning Ordinance attached hereto as Exhibit A is hereby adopted as the zoning ordinance for the Town.

**Section 3: Repeal**

Zoning Ordinance 14-04 is hereby repealed in its entirety.

**Section 4: Penalty Clause**

**A. Violation**

A person who knowingly violates any provision of this chapter is guilty of separate offenses for each day during which the violation is continued. Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this ordinance.

**B. Fine**

Each offense is punishable by a fine of not more than two-thousand (\$2,000) nor less than two-hundred (\$200). The minimum fine established in this paragraph shall be doubled for the second conviction of the same offense within any 24-month period and tripled for the third and subsequent convictions of the same offense within any 24-month period. At no time shall the minimum fine exceed the maximum fine established in this paragraph.

### **Section 5: Legal Rights**

The penal provision imposed under this Zoning Ordinance shall not preclude the Town of Lakewood Village from filing suit to enjoin the violation. The Town of Lakewood Village retains all legal rights and remedies available to it pursuant to local, state, and federal law.

### **Section 6: Severability**

#### **A. Unconstitutional or Invalid Section**

Should any section, subsection, sentence, clause or phrase of this Zoning Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Zoning Ordinance shall remain in full force and effect.

#### **B. Independent Sections**

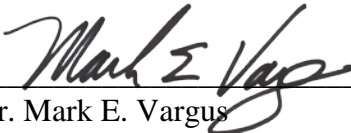
The Town hereby declares that it would have passed this Zoning Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and/or phrases be declared unconstitutional or invalid.

### **Section 7: Estoppel / Waiver**

The failure of the Town to enforce any term or condition of this Ordinance shall not constitute a waiver or estoppel or any subsequent violation of this Ordinance.

**Section 8: Effective Date**

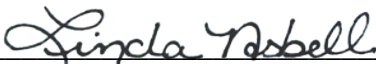
**PASSED AND APPROVED** by the Town Council of the Town of Lakewood Village, Texas  
this the 14th day of February, 2019

  
\_\_\_\_\_  
Dr. Mark E. Vargus  
Mayor

**COUNCIL SPONSOR**

\_\_\_\_\_  
Clint Bushong  
Councilman

**ATTESTED:**

  
\_\_\_\_\_  
Linda Asbell, TRMC, CMC  
Town Secretary



**APPROVED AS TO FORM:**

\_\_\_\_\_  
W. Andrew Messer  
Town Attorney

## **EXHIBIT A**



# **ZONING ORDINANCE**

**First Public Hearing: September 13, 2018**

**Second Public Hearing: December 13, 2018**

**Third Public Hearing: January 10, 2019**

**Fourth Public Hearing: February 14, 2019**

**Adopted: February 14, 2019**

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## **SECTION 1: GENERAL PROVISIONS**

### **1.1. ZONING DISTRICT MAP**

#### **1.1.1. Zoning Districts Shown on the Zoning District Map**

The boundaries of zoning districts set out herein are delineated upon a Zoning District Map of the Town, adopted as part of this ordinance as fully as if the same were set forth herein detail.

#### **1.1.2. Official Zoning District Map**

##### **A. Official Zoning District Map Filing**

One original of the Zoning District Map shall be filed in the office of the Town Secretary and labeled as Ordinance Number 19-02. This copy shall be the "Official Zoning District Map" and shall bear the signature of the Mayor and attestation of the Town Secretary.

##### **B. Official Zoning District Map Management**

1. The Official Zoning District Map shall not be changed in any manner except as amended by the Town Council as provided herein.
2. In case of any question, the Official Zoning District Map, together with amending ordinances, shall be controlling.

##### **C. Zoning Map Reproductions**

1. Reproductions for informational purposes may be made of the Official Zoning District Map.

### **1.2. ZONING DISTRICT BOUNDARIES**

#### **1.2.1. District Boundary Interpretation Rules**

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

##### **A. Centerlines**

Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerline.

##### **B. Platted Lot Lines**

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

##### **C. Town Limits**

Boundaries indicated as approximately following City limits shall be construed as following city limits.

#### D. Shore Lines

Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerline of streams, lakes, or other bodies of water shall be construed to follow such centerline, and in the event of change in the centerline, shall be construed to move with such centerline.

#### E. Parallel to or Extensions of Features

Boundaries indicated as a parallel to or extensions of features indicated in Subsections (A) through (D) above shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.

#### F. Vacated Public Way

Whenever any street, alley, or other public way is vacated by official action of the Town Council, the vacated area shall be rezoned according to Amendments to the Zoning Ordinance.

#### G. Boundary as Condition of Zoning Approval

The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street, unless as a condition of zoning approval, it is stated that the zoning classification shall not apply to the street.

#### H. Zoning Ambiguity

Where physical features on the ground conflict with information shown on the Official Zoning District Map, or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of subsections (A) through (G), the property shall be considered as classified, Single Family, District 5, in the same manner as provided for newly annexed territory and the issuance of a building permit and the determination of permanent zoning shall be in accordance with the provisions provided in section 6.1 ZONING UPON ANNEXATION for temporarily zoned areas.

### **1.3. COMPLIANCE REQUIRED / INTERPRETATION / RULES OF CONSTRUCTION**

#### **1.3.1. Compliance Required**

##### A. Applicability

Compliance with the Zoning Ordinance shall apply to all land, buildings, structures or appurtenances located within the Town which are hereafter:

1. Occupied,
2. Used,
3. Erected,
4. Altered,
5. Removed,
6. Placed,
7. Demolished, or

## 8. Converted

### B. Compliance with Zoning District

The land, buildings, structures or appurtenances described in section 1.3.1.A Applicability shall be in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided or subject to penalties as established by ordinance.

### 1.3.2. Interpretation

#### A. Restrictiveness

Where the regulations imposed herein are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards are the requirements that shall govern. Notwithstanding the foregoing, the Town may, but is not required to, seek enforcement of a more restrictive regulation imposed by a person or entity other than the Town.

#### B. Abrogation

The provisions of these regulations are not intended to abrogate any easement, covenant or other private agreement, provided that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement, the requirements of these regulations shall govern.

#### C. Error Correction

In the event that any property or Zoning District set forth on the Zoning District Map as provided in section 1.1 ZONING DISTRICT MAP of this ordinance is misnamed, designated incorrectly, the boundaries are incorrect or the property is omitted, in part or in whole, the Zoning District map may be amended and/or supplemented according to the following:

##### 1. Applicants

The property owner of said tract or Town staff may submit an application to the Town Council to initiate the error correction process.

##### 2. Process

The error correction shall be processed as a zoning map or text amendment according to section 6.5 AMENDMENTS TO THE ZONING ORDINANCE / DISTRICTS AND ADMINISTRATIVE PROCEDURES.

#### D. Building Inspector Authority to Interpret the Zoning Ordinance

1. Unless specified within in a section, the Building Inspector shall have the authority to interpret and enforce the Zoning Ordinance.
2. A person aggrieved by the Building Inspector's interpretation may appeal the interpretation to the Town Council pursuant to 6.14 APPEALS AND THE APPEAL PROCESS.

### 1.3.3. Rules of Construction

The language set forth in these regulations shall be interpreted in accordance with the following rules of construction.

#### A. Number

The words in the singular shall include the plural and words in the plural shall include the singular;

#### B. Tense

The present tense includes the past and future tenses and the future the present;

#### C. Mandatory and Permissive Language

The word "shall" and "must" are mandatory while the word "may" is permissive;

#### D. Gender Terms

The masculine gender includes the feminine and neuter;

#### E. Parentheses

Any word appearing in parentheses directly after a word herein defined shall be construed in the same sense as that word;

#### F. Conflicts

If there is an expressed conflict:

- 1) The text of this ordinance controls over the charts or any other graphic display in this ordinance; and
- 2) The use regulations control over the district regulations in this ordinance.

## 1.4. NONCONFORMING USES AND STRUCTURES

### 1.4.1. Intent of Provisions

#### A. Existence of Nonconformities

1. The purpose of this section is to establish provisions for the allowance and potential alteration of uses, lots and/or structures which do not conform to currently applicable standards or regulations, but which were in conformance with standards in place at the time of their inception, and have been rendered nonconforming due to a change in the applicable standards and regulations.
  - a. Nonconformities occur in three (3) general categories, or combinations thereof.
    1. Land may be used in a nonconforming manner.
    2. A lot can be nonconforming as to lot area or dimension requirement.
    3. A structure can be nonconforming as to setback, height, lot area, or dimension requirement.
2. It is the declared intent that nonconforming uses and structures eventually be eliminated and be required to comply with the regulations of the Zoning Ordinance, having due regard for the

property rights of the person affected, the public welfare, and the character of the surrounding area.

**B. Limit Incompatibility**

It is further the intent that nonconforming uses shall not be:

1. Enlarged upon,
2. Expanded or extended, or
3. Used as a basis for adding other structures or uses prohibited elsewhere in the same district.

**C. Incompatible Uses**

Notwithstanding anything to the contrary, nonconforming uses are hereby declared incompatible with the permitted uses in the districts involved.

**1.4.2. Establishment of Legal Nonconforming Status**

**A. Existence**

For purposes of interpretation of this subsection, any uses, structures and/or lots which in whole or part are not in conformance with current zoning standards shall be considered as follows.

**1. Legal Nonconforming**

Those uses, structures or lots which in whole or part are not in conformance with current regulations, but were legally established at a prior date at which time they were in conformance with applicable standards. Such uses, structures or lots may be maintained or potentially altered subject to the provisions of this subsection.

**2. Illegal**

Those uses, structures or lots which in whole or part are not in conformance with current regulations and were not in conformance with applicable standards at the time of their inception shall not be considered nonconforming, but shall be considered illegal uses, structures, or lots and shall not be approved for any alteration or expansion, and shall undertake necessary remedial measures to reach conformance with current standards, or be discontinued.

**B. Time of Adoption**

Any use, platted lot, and/or structure which is lawful at the time of the adoption of any amendment to this ordinance but by such amendment is placed in a district wherein such use, platted lot, and/or structure is not otherwise permitted shall be deemed legal nonconforming.

**C. Annexation**

A use, platted lot and/or structure that was lawfully commenced and in existence at the time of annexation to the Town and has since been in regular and continuous use shall be deemed legal nonconforming.

**1.4.3. Burden of Demonstration**

The burden of establishing that any use, structure or land is nonconforming as defined in this subsection shall be borne by the owner or proponent of such legal nonconforming use, structure or land.

#### **1.4.4. Continuing Lawful Use of Property and Existence of Structures**

##### **A. Abandonment of Nonconforming Use**

If a nonconforming use on a particular parcel of land shall cease operations for a period of more than six (6) months, then such nonconforming use shall be presumed to be permanently abandoned. Unless the Town Council determines, upon evidence presented by the owner that the nonconforming use or structure was not abandoned, or unless the Town Council reinstates the nonconforming rights pursuant to section 6.10 REINSTATEMENT OF NONCONFORMING RIGHTS of this Ordinance, such a use shall not be instituted or continued on that parcel or other parcel in any district which does not permit the discontinued use. For the purpose of this paragraph, to “cease operations” shall mean to intentionally terminate operations of the nonconforming use. Any nonconforming use which does not involve a permanent type of structure or operation and which is moved from the premises shall be considered to have been abandoned.

##### **B. Reinstatement of Nonconforming Use Rights**

An owner and/or operator of a nonconforming use that has been deemed permanently abandoned pursuant to 1.4.1.A may request that the nonconforming rights to the use be reinstated pursuant to section 6.10 REINSTATEMENT OF NONCONFORMING RIGHTS of this Ordinance.

##### **C. Prohibited Expansion or Reoccupation**

A nonconforming use or structure shall not be expanded, reoccupied with another nonconforming use, or increased as of the effective date of this ordinance except as provided in 1.4.6 Expansion of Nonconforming Uses and Structures.

##### **D. Single Family Residential Use**

1. Conforming single family residential uses on platted lots approved prior to June 12, 2014, which may now be nonconforming due to stricter standards, shall be deemed in conformance with this ordinance as long as the use of the lot is allowed in the respective district.
2. Only the lot size, depth, setbacks and width shall be allowed to be less than the regulations prescribed in the zoning district in which it is located. All other regulations of this ordinance shall be met, or the lot shall be considered nonconforming.

##### **E. Existing Platted Lots are Conforming Lots**

Any existing vacant lot platted prior to June 12, 2014, which was legally conforming, shall be deemed a conforming lot.

#### **1.4.5. Changing Uses and Nonconforming Rights**

##### **A. Nonconforming Use to Conforming Use**

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

##### **B. Nonconforming Use to Another Nonconforming Use**

A nonconforming use may not be changed to another nonconforming use.

**C. Conforming Use in a Nonconforming Structure**

Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by the process outlined in 1.4.6 Expansion of Nonconforming Uses and Structures.

**1.4.6. Expansion of Nonconforming Uses and Structures**

An expansion of a nonconforming use or structure is allowed in accordance with the following.

**A. Nonconforming Use Expansion in Existing Building**

A nonconforming use located within a building may be extended throughout the existing building, provided.

1. No structural alteration, except as provided in 1.4.1.E may be made on or in the building except those required by law to preserve such building in a structurally sound condition.
2. The number of dwelling units or rooms in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units or rooms existing at the time said use became a nonconforming use.

**B. Nonconforming Use Prohibited from Expansion beyond Existing Building**

Nonconforming use within a building shall not be extended to occupy any land outside the building.

**C. Off-Street Loading and Parking**

Nonconforming use of land or building shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the land became a nonconforming use, except to provide off-street loading or off-street parking space.

**D. Residential Lot Exemption**

The minimum residential lot areas for the various zoning districts shall be in accordance with their respective districts except that a lot having less area than herein required which was an official "lot of record" prior to June 12, 2014, may be used for a single family dwelling.

**E. Expansion of Nonconforming Buildings with Conforming Uses**

Buildings or structures which do not conform to the area regulations or development standards in this ordinance but where the uses are deemed conforming shall not increase the gross floor area greater than ten (10) percent from the date when the building became nonconforming.

**F. Reuse of Abandoned or Vacant Buildings by Conforming Uses Allowed**

Buildings or structures which have been vacant or abandoned for more than six (6) months and do not meet the current area regulations or development standards shall be allowed to be re-occupied by a conforming use.

**1.4.7. Restoration of Nonconforming Structures****A. Total Destruction**

If a nonconforming structure is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this Ordinance.

**B. Partial Destruction**

In the case of partial destruction of a nonconforming structure not exceeding fifty-one (51) percent of its total appraised value as determined by the Appraisal District, reconstruction will be permitted, but the existing square footage or function of the nonconforming structure cannot be expanded.

**1.4.8. Movement of Nonconforming Structures****A. Relocation of a Nonconforming Structure within a Platted Lot**

Nonconforming structures may be relocated within the same platted lot.

**B. Compliance**

Nonconforming structures shall comply with all setback and screening requirements.

**1.4.9. Completion of Structures**

Nothing herein contained shall require any change in the plans, construction, or designated use of the following.

**A. Approved Building**

A building or structure for which a building permit has been issued or a Site Plan approved prior to June 12, 2014.

**B. Building in the Approval Process**

A building or structure for which a complete application for a building permit was accepted by the Building Inspector on or before the effective date of these regulations, provided however, that such building permit shall comply with all applicable ordinances in effect on the date such application was filed.



## **SECTION 2: ZONING DISTRICTS**

### **2.1. ZONING DISTRICTS ESTABLISHED**

The Town is hereby divided into the following zoning districts. The use, height and regulations are set out herein apply to each district. The districts established herein shall be known as the following:

**Table 2.1: Zoning Districts Table**

<b>Document Section</b>	<b>District ID</b>	<b>District Name</b>
<b>Residential Zoning Districts</b>		
2.3.1	1	Single Family Residential – District 1
2.3.2	2N / 2S	Single Family Residential – District 2N / 2S
2.3.3	3	Single Family Residential – District 3
2.3.4	4	Single Family Residential – District 4
2.3.5	5	Single Family Residential – District 5
2.3.6	6	Single Family Residential – District 6
<b>Commercial Zoning Districts</b>		
		None
<b>Special Zoning Districts</b>		
6.12	PD	Planned Development
6.13	SUP	Special Use Permit

## 2.2. EQUIVALENCY TABLE

The following table will identify zoning districts adopted in previous Ordinances and the District which now applies in this Ordinance to those Districts.

**Table 2.2: Zoning Equivalency Table**

Prior to Ordinance 14-04	Ordinance 14-04
<b>Section 1</b>	Single Family Residential – District 1
<b>Section 2</b> Block H Lots 1-6, Block J Lots 1-12, Block K lots 1-11 & Block L Lots 1-5	Single Family Residential – District 2N
<b>Section 2</b> Block L Lots 6-13, Block M Lots 1-7 & Block B Lots 38-43	Single Family Residential – District 2S
<b>Section 3</b> Block N Lots 27-33, Block P Lots 1-18 & Block R Lots 1-4	Single Family Residential – District 3
<b>Section 3</b> Block N Lots 1-26	
<b>Section 3</b> Block M Lots 8-14	
<b>Section 4</b>	Single Family Residential – District 4
<b>Section 5 - Single Story Residence</b> Block A Lots 1-22, Block B Lots 1-4, Block C Lots 1-4, Block D Lots 1-12 & Block F Lots 3-16	Single Family Residential – District 5
<b>Section 5 - Two Story Residence</b> Block A Lots 1-34, Block B Lots 1-4, Block C Lots 1-16, Block D Lots 1-13, Block E Lots 1-20 & Block F Lots 3-16	
<b>Section 5 - Single Story</b> Block A Lots 23-34, Block C Lots 5-16, Block D Lot 13, Block E Lot 1-20 & Block F Lot 1-2	
<b>Section 6</b> Single Story Residence	Single Family Residential – District 6
<b>Section 6</b> Two Story Residence	

## **2.3. RESIDENTIAL ZONING DISTRICTS**

### **2.3.1. Single Family Residential – District 1**

#### **A. General Purpose and Description**

District 1 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of seven thousand five hundred (7,500 ft<sup>2</sup>) square feet.

#### **B. Permitted Uses**

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

#### **C. Area Regulations**

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

### **2.3.2. Single Family Residential – District 2N / 2S**

#### **A. General Purpose and Description**

District 2 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of nine thousand five hundred (9,500 ft<sup>2</sup>) square feet.

#### **B. Permitted Uses**

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

#### **C. Area Regulations**

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

### **2.3.3. Single Family Residential – District 3**

#### **A. General Purpose and Description**

District 3 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of ten thousand (10,000 ft<sup>2</sup>) square feet.

#### **B. Permitted Uses**

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

#### **C. Area Regulations**

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

### **2.3.4. Single Family Residential – District 4**

#### **A. General Purpose and Description**

District 4 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of forty-three thousand five hundred sixty (43,560 ft<sup>2</sup>) square feet.

**B. Permitted Uses**

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

**C. Area Regulations**

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

**D. Other Regulations**

The use of an alley to provide secondary access to rear or side yards of multiple properties is prohibited.

**2.3.5. Single Family Residential – District 5****A. General Purpose and Description**

District 5 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of forty-three thousand five hundred sixty (43,560 ft<sup>2</sup>) square feet.

**B. Permitted Uses**

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

**C. Area Regulations**

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

**2.3.6. Single Family Residential – District 6****A. General Purpose and Description**

District 6 is intended to provide a residential environment for single family detached dwellings on parcels of land having a minimum lot area of forty-three thousand five hundred sixty (43,560 ft<sup>2</sup>) square feet.

**B. Permitted Uses**

Permitted uses are outlined in section 3.1 USE OF LAND AND BUILDINGS.

**C. Area Regulations**

Property and buildings shall conform to the related standards listed within section 2.4 DEVELOPMENT STANDARDS.

**D. Other Regulations**

The use of an alley to provide secondary access to rear or side yards of multiple properties is prohibited.

## 2.4. DEVELOPMENT STANDARDS

### 2.4.1. Purpose

The purpose of this section is to establish area regulations and development standards for each zoning district.

### 2.4.2. Establishment of Area Regulations and Standards

Reference Table 2.4: Residential Districts Development Standards Table.

### 2.4.3. Additional Area Regulations and Standards

Additional area regulations and standards may apply to specific zoning districts and may be found within the other sections of this Zoning Ordinance.

### 2.4.4. Maximum Impervious Surface

The cumulative area of any driveway plus any impermeable surface area located between the front property line and any front building wall shall not exceed fifty (50) percent coverage or twenty-five (25) percent coverage for corner lots.

### 2.4.5. Landscape Requirements – New Construction

#### A. Single Family Districts

Landscaping is required for all new construction.

**Table 2.3: Single Family Planting Requirements**

Lot Size (ft <sup>2</sup> )	Number of Trees	Number of Shrubs
7,500 → 33,000	2	10
> 33,001	3	15

1. Ground cover shall be planted in the front, side and rear yards of all residential lots. Ground cover includes, but is not limited to: grasses, mulched planter beds, and hardscape;
2. The required trees and shrubs shall be planted in the front yard. Existing trees may be counted toward the minimum requirement. Refer to Table 2.3: Single Family Planting Requirements.
3. All landscaping required above shall be planted prior to issuance of the certificate of occupancy or final inspection for the dwelling.
4. Artificial plants or turf are expressly prohibited.

#### B. Recommended Tree and Shrub Size

Trees should be a minimum of three (3) inch caliper in size and shrubs should be a minimum of three (3) gallon in size.

### 2.4.6. Irrigation System – New Construction

#### A. Single Family Districts

Irrigation shall be required for all trees and shrubs in areas between the front building face and the street and the on corner lots, for all trees and shrubs in areas between the front building face and the street and the side building face and the street.

**B. Recommended Irrigation Method**

Trees and shrubs should be irrigated by bubbler irrigation lines. Other landscaping may be irrigated by spray irrigation. Separate valves should be provided to turn off the spray irrigation lines during periods of drought or water conservation. All valves should be controlled by an automatic watering system designed for watering for a specified amount of time at a specified time of day.

**2.4.7. Garages**

**A. Single Family**

Each single family lot shall have a minimum of two (2) enclosed garage parking spaces.

**B. Front Facing**

Front or street facing garages shall be prohibited.

**C. Minimum Size**

There shall be a minimum garage size on all new construction of twenty-five (25) feet in width and twenty-two (22) feet in depth.

**D. Exceptions**

1. Where the configuration of the lot is such that conformity with this provision of this ordinance would create a hardship, the Town Council may allow a variance for the lot in question. The variance is only applicable to the submitted site plan and shall be null and void if a new site plan is submitted.
2. Corner lots in Districts 1, 2N, 2S and 3 shall be permitted a front facing garage such that the front of the house and the front of the garage are not facing the same street.

**2.4.8. Driveways**

All new building construction shall have a concrete paved driveway.

**A. Size**

There shall be two (2) parking spaces provided behind the front property line only for the purpose of allowing on-site stacking or maneuvering to the enclosed spaces.

1. Driveways shall be a minimum of ten (10) feet wide in districts zoned less than one acre.
2. Driveways shall be a minimum of twelve (12) feet wide in districts zoned greater than or equal to one acre.

**B. Enhanced Pavement**

Driveways and entryway sidewalks may incorporate a decorative paving technique:

1. Exposed aggregate;
2. Stamped or patterned concrete; or
3. Brick or pave stone inlays.

The following enhancements are prohibited;

1. Painting;
2. Staining; or
3. The use of ready-mix pigments.

C. Enclosed Parking and Stacking Spaces

1. Districts with required enclosed parking and stacking spaces shall be a minimum of nine (9) feet wide and twenty (20) feet long.
2. Required enclosed parking and stacking spaces shall remain clear of any encroachments.

D. Circular Driveways

Circular driveways shall be designed to accommodate any required parking behind the front building line.

E. Encroachment into Setbacks

Refer to Section 4.3.4 Side Yard Set Back.

**Table 2.4: Residential Districts Development Standards Table**

Development Standards	1	2N	2S	3	4	5	6
<b>Setbacks</b>							
Minimum Front Yard	20 ft	20 ft	20 ft	20 ft	30 ft	30 ft	30 ft
Minimum Side Yard – Dwelling or Accessory Structure	7 ft	7 ft	7 ft	7 ft	12 ft	12 ft	12 ft
Minimum Rear Yard – Dwelling or Accessory Structure	--	--	--	--	20 ft	--	20 ft
Minimum Side Yard – Pool and/or Spa	10 ft	10 ft	10 ft	10 ft	12 ft	12 ft	12 ft
Minimum Rear Yard – Pool and/or Spa	10 ft	10 ft	10 ft	10 ft	20 ft	10 ft	20 ft
<b>Lot Dimensions</b>							
Minimum Area	7,500 ft <sup>2</sup>	9,500 ft <sup>2</sup>	9,500 ft <sup>2</sup>	10,000 ft <sup>2</sup>	43,560 ft <sup>2</sup>	43,560 ft <sup>2</sup>	43,560 ft <sup>2</sup>
Minimum Width	60 ft	70 ft	70 ft	70 ft	90 ft	90 ft	90 ft
<b>Dwelling – Non Waterfront Lots</b>							
Minimum Dwelling Area – Single Story	1,000 ft <sup>2</sup>	1,200 ft <sup>2</sup>	1,800 ft <sup>2</sup>	1,200 ft <sup>2</sup>	1,800 ft <sup>2</sup>	2,400 ft <sup>2</sup>	2,400 ft <sup>2</sup>
Minimum Ground Floor Dwelling Area – Two Story	1,000 ft <sup>2</sup>	1,200 ft <sup>2</sup>	1,800 ft <sup>2</sup>	1,200 ft <sup>2</sup>	1,800 ft <sup>2</sup>	3,000 ft <sup>2</sup>	3,000 ft <sup>2</sup>
Maximum Height / Stories	2.5	2.5	2.5	2.5	2.5	2.5	2.5
<b>Dwelling – Waterfront Lots</b>							
Minimum Dwelling Area – Single Story	2,000 ft <sup>2</sup>	--	--	1,800 ft <sup>2</sup>	1,800 ft <sup>2</sup>	3,000 ft <sup>2</sup>	3,000 ft <sup>2</sup>
Minimum Ground Floor Dwelling Area – Two Story	2,000 ft <sup>2</sup>	--	--	1,800 ft <sup>2</sup>	1,800 ft <sup>2</sup>	3,000 ft <sup>2</sup>	3,000 ft <sup>2</sup>
Maximum Height / Stories	2.5	--	--	2.5	2.5	2.5	2.5
<b>Dwelling – All</b>							
Minimum Elevation (above mean sea level)	540 ft						
Roofing Material	Wooden Shingles Prohibited						



### SECTION 3: LAND USES

#### 3.1. USE OF LAND AND BUILDINGS

##### 3.1.1. Uses Permitted by District

The use of land or buildings shall be in accordance with those listed in the following 3.2 Use Table. No land or building shall hereafter be used and no building or structure erected, altered, or converted other than for those uses specified in the zoning district in which it is located.

##### 3.1.2. Classification of New and Unlisted uses

It is recognized that new types of land use will develop and forms of land use not presently anticipated may seek to locate in the Town. If the Building Inspector is unable to classify the use under one of the existing listed uses, then the Town Council shall interpret and initiate a zoning text amendment pursuant to the procedures set forth in this ordinance.

#### 3.2. USE TABLE

Base Zoning District Legend		Base						Special	
P	Indicates Permitted Use	1	2N / 2S	3	4	5	6	PD - Planned Development	SUP - Special Use Permit
	Indicates Prohibited Use								
S	Indicates Specific Use Permit Required								
C	Indicates Conditional Use								
Special Zoning District Legend									
	Indicates Regulation by District								
Use Type									
Residential Uses									
Garage Apartment		P	P	P	P	P	P		
Guest House		P	P	P	P	P	P		
Single Family Residence		P	P	P	P	P	P		
Non Residential Uses									
Accessory Structure		C	C	C	C	C	C		
Child-Care: Home		C	C	C	C	C	C		
Electrical Sub Station		S	S	S	S	S	S		
Home Occupation		C	C	C	C	C	C		
Homebuilder Marketing Center		C	C	C	C	C	C		
Municipal Uses Operated by the Town		P	P	P	P	P	P		
Parks or Open Space		P	P	P	P	P	P		
Telephone Exchange		S	S	S	S	S	S		

### 3.2.1. Conditional Development Standards

A use is permitted in the zoning district as indicated in the Use Table; section 3.2 USE TABLE, if the following conditional development standards or limitations are met.

#### A. Accessory Structure

Refer to section 4.2.4 Detached Garage and Accessory Building – New Construction.

#### B. Child-care: Home

Permitted by right as home occupation in the designated zoning districts and is subject to the regulations of Home Occupation.

#### C. Home Occupation

A home occupation, in districts where allowed, shall meet the following standards to maintain the residential character of the neighborhood while providing opportunities for home-based businesses.

1. Home occupations shall not produce any alteration or change in the exterior appearance of the residence which is inconsistent with the typical appearance of a residential dwelling.
  - a. No external evidence of the occupation shall be detectable at any lot line, including but not limited to advertising, signs, smoke, dust, noise, fumes, glare, vibration, or electrical disturbance beyond the property line;
  - b. No exterior storage of material, equipment, vehicles, and/or supplies used in conjunction with the home occupation;
  - c. No storage of hazardous materials for business purpose shall be allowed on the premises;
  - d. The home occupation shall not have a separate entrance;
  - e. Proprietor shall provide adequate off-street parking for business related vehicles;
  - f. A maximum of one (1) commercial vehicle, capacity one (1) ton or less, may be used or parked on the property in connection with the home occupation. The commercial vehicle shall not be parked on the street;
  - g. The home occupation shall not require regular or frequent deliveries by large delivery trucks or vehicles in excess of one and one-half (1½) tons. This shall not be construed to prohibit deliveries by commercial package delivery companies;
  - h. The home occupation shall not display advertising signs or other visual or audio devices which call attention to the business use;
  - i. Merchandise shall not be offered or displayed for sale on the premises. Sales incidental to a service shall be allowed; and orders previously made via the telephone, internet, or at a sales party may be filled on the premises; and

- j. No traffic shall be generated by a home occupation in greater volumes than normally expected in a residential neighborhood, and any need for parking must be accommodated within the off-street parking provided for the residence (i.e. the driveway or garage) and along the street frontage of the lot.
  - k. The home occupation shall be clearly incidental and secondary to the use of the premises for residential purposes.
  - l. The home occupation shall employ no more than two (2) individuals who are not an occupant of the residence. This shall not include the coordination or supervision of employees who do not regularly visit the house for purposes related to the business.
  - m. The home occupation shall not offer a ready inventory of any commodity for sale.
  - n. The home occupation shall not accept clients or customers before 7:00 a.m. or after 9:00 p.m. This limitation of hours of operation shall not apply to allowed childcare home occupations. Hours of operation shall be limited to 8:00 a.m. to 8:00 p.m. for outdoor activities.
  - o. Outdoor activities are not allowed, unless the activities are screened from neighboring property and public rights-of-way.
2. Uses allowed as home occupations shall include the following:
- a. Office of an accountant, architect, attorney, engineer, realtor, minister, rabbi, clergyman, or similar profession.
  - b. Office of a salesman or manufacturer's representative, provided that no retail or wholesale transactions or provision of services may be personally and physically made on premises;
  - c. Author, artist, sculptor;
  - d. Dressmaker, seamstress, tailor, milliner;
  - e. Music/dance teacher, tutoring, or similar instruction;
  - f. Swimming lessons or water safety instruction;
  - g. Home crafts, such as weaving, model making, etc.;
  - h. Repair shop for small electrical appliances, cameras, watches, or other small items, provided that the items can be carried by one person with no special equipment, and provided that no internal combustion engine repair is allowed;
  - i. Child-Care: Licensed Child-Care Home, Child-Care: Listed Family Home, or Child Care: Registered Child-Care Home. Homes with six (6) or more children shall be prohibited.
  - j. Barbershop, beauty salon, or manicure studio, provided that no more than one (1) customer is served at any one time;
  - k. Internet based businesses; and

l. Food Production Operations that produce non-potentially hazardous food. Examples of non-potentially hazardous foods include, bread, rolls, biscuits, sweet breads, muffins, cakes, pastries, cookies, fruit pies, jams, jellies, dry herbs and dry herb mixes.

3. Uses prohibited as home occupations shall include the following:

- a. Animal hospital, commercial stable, kennel;
- b. Boardinghouse or rooming house;
- c. Restaurant or on premise food/beverage consumption of any kind;
- d. Automobile, boat, or trailer repair, small engine or motorcycle repair, large appliance repair, repair of any items with internal combustion engines, or other repair shops;
- e. Cabinetry, metal work, or welding shop;
- f. Office for doctor, dentist, veterinarian, or other medical-related profession;
- g. On-premise retail or wholesale sale of any kind, except home craft items produce entirely on premises;
- h. Commercial clothing laundering or cleaning;
- i. Mortuary or funeral home;
- j. Trailer, vehicle, tool, or equipment rental;
- k. Antique, gift, or specialty shop;
- l. Any use defined by the building code as assembly, factory/industrial, hazardous, institutional, or mercantile occupancy; and

4. Determination of a Home Occupation Use not Specifically Listed:

- a. The Director shall determine whether a proposed use not specifically listed is appropriate as a home occupation. The Director shall evaluate the proposed home occupation in terms of its impact on neighboring property, its similarity to other allowed and prohibited uses, and its conformance with the regulations herein.

5. Appeal of the Director's Home Occupation Determination:

- b. If the applicant disagrees with the determination of the Director, the applicant may appeal to the Town Council.
- c. Any home occupation that was legally in existence as of the effective date of this Ordinance and that is not in full conformity with these provisions shall be deemed a legal nonconforming use.

D. Homebuilder Marketing Center

- 1. Shall be used only to market homes/lots in the development where it is located when located in a residential zoning district.
- 2. The use must be removed when all homes/lots in the development have been sold.

## **SECTION 4: SITE DEVELOPMENT REQUIREMENTS**

### **4.1. SCREENING STANDARDS**

#### **4.1.1. Scope**

Standards set forth in this section establish the required screening.

##### **A. Applicability**

The standards and criteria contained in this section are the minimum standards.

##### **B. Exceptions**

All plats with an approved Site Plan and/or Landscape Plan prior to June 12, 2014 shall be considered legal nonconforming.

#### **4.1.2. Thoroughfare Standards**

##### **A. Applicability**

Regulations are prescribed for the location and type of screening devices to be used when required in zoning districts or in this section.

##### **B. Screening Wall Materials**

A screening wall or fence required under the provisions of this section, under a Specific Use Permit, a Planned Development District, or other requirement shall be constructed of clay-fired brick or stone masonry units.

1. All wall or fence openings within a required screening element shall be equipped with gates equal in height and screening characteristics to the wall or fence;
2. Split-face concrete masonry units, or pre-cast panels are prohibited.

##### **C. Screening Wall Finishing on Both Sides**

1. All masonry screening walls shall be equally finished on both sides of the wall;
2. The style, color, and material of the wall must be consistent within the development.

##### **D. Screening Installation and Maintenance**

1. All required walls, fencing, and other screening materials must be installed and completed prior to final acceptance of the project;
2. The property owner shall maintain all screening fences, walls, and landscaping;
3. Repairs to existing walls will be permitted with the addition of galvanized metal supports being added to the area being repaired.

##### **E. Access Management**

1. Screening walls shall have adequate breaks to allow pedestrian and bicycle traffic to access parks and public paths.
2. Screening walls shall be designed so as not to create a barrier between residential districts.

#### 4.1.3. Thoroughfare Screening / Buffer Areas

##### A. Living Screen

###### 1. Adjacent Property

- a. Side and/or rear yards of Single Family land that are adjacent to nonresidential or a thoroughfare;

###### 2. Landscape Buffer

Thirty (30) foot minimum width as measured from property line to edge of street.

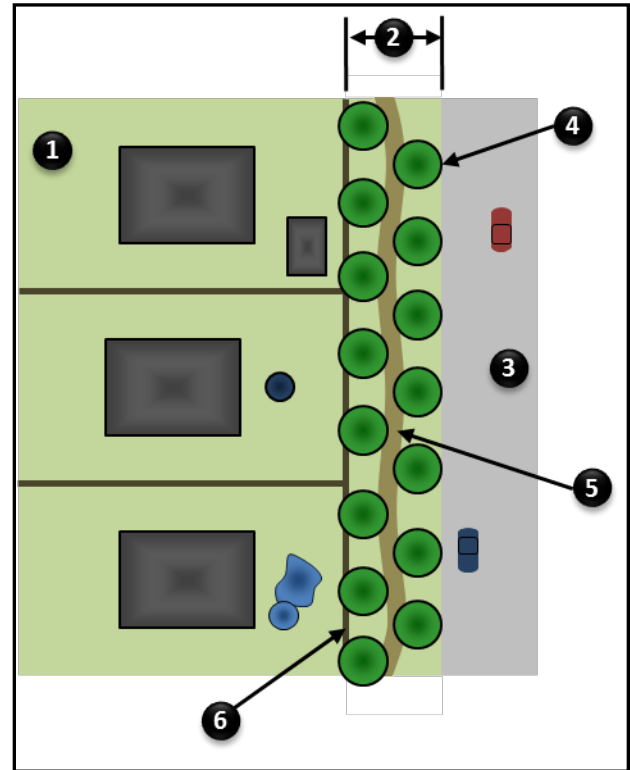
###### 3. Pavement

Parking or other impervious surface; may drain to Water Resource Zone in buffer.

###### 4. Trees

Two rows, large evergreen trees;

Minimum six (6) feet in height at planting and create a solid screen. Spacing shall be determined based on species and approved by a licensed Landscape Architect.



###### 5. Pedestrian Path

Minimum six (6) feet in width; surface may be impervious or natural. Natural surfaces must be pre-approved by the Town and included in the Landscape Plan.

###### 6. Private Fence

Fencing material must be of the same type and style for the entire length of screen. Maintenance of the fence will be the responsibility of the homeowner upon acceptance of the development by the Town.

#### 4.1.4. Screening for Refuse (Trash) and Recycling Storage Container – New Construction

##### A. Single Family

1. Refuse and recycling receptacles shall be located to minimize their visibility from public streets.
2. Screening enclosures shall be visually and aesthetically compatible with the overall project;

#### 4.1.5. Screening for Utilities, Mechanical, and Service Facilities – New Construction

##### A. Applicability

The standards and criteria contained in this section are the minimum standards.

##### B. Finish of Accessory Elements

Exposed conduit, ladders, utility boxes, and drain spouts shall be painted to match the color of the building or an accent color.

C. Ground-Mounted and Roof-Mounted Mechanical Equipment Screening

1. All mechanical equipment shall be screened from street view.
2. If a parapet does not accomplish this screening, a screening wall equal to the height of the equipment shall be provided.
3. Buildings adjacent to single family zoned property or property that is designated as single family on the Future Land Use Plan shall provide a screening wall equal to the height of the equipment on all sides that face the residential property.
4. In all cases, screening shall be compatible with building materials.

D. Pool/Spa Equipment Screening

1. All Pool and/or Spa equipment shall be screened from street view.
2. The Lakewood Village Fence Ordinance, as amended, shall apply to the screening requirements.

**4.1.6. Screening for Propane Tanks – New Construction**

A. Above Ground

1. Propane tank(s) shall be screened from street view.
2. The Lakewood Village Fence Ordinance, as amended, shall apply to the screening requirements.

**4.2. ACCESSORY STRUCTURE STANDARDS**

**4.2.1. Accessory Structure Use in Residential Districts**

An accessory building is a subordinate or incidental building, detached from the main building without separate kitchen facilities, not used for commercial purposes and not rented. A Garage Apartment and a Guest House may include kitchen facilities, but shall not be used for commercial purposes and shall not be rented.

**4.2.2. Garage Apartment or Guest House**

A single Garage Apartment or single Guest House shall be allowed as an incidental use on the same lot or tract as the main dwelling unit and shall not be leased or rented.

A. Location

1. A Garage Apartment shall be constructed attached to a garage, either above or adjacent to the garage.

B. Building Permit Requirement

A Garage Apartment or Guest House may be constructed only after the issuance of a building permit.

C. Independent Sale and Sublet Prohibited

A Garage Apartment or Guest House may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be sublet.

D. Setbacks

Setback requirements shall be the same as for the main structure.

**4.2.3. Area Regulations for Accessory Structure in Residential Districts**

An accessory structure is prohibited in any easement.

A. Single Family Residential Districts

Accessory structure yard requirements shall be the same as the main structure unless otherwise specified in the zoning district or approved by the Town on a Preliminary Site Plan.

**4.2.4. Detached Garage and Accessory Building – New Construction**

A. Greater than 250 Square Feet

The exterior facades of a detached garage or other accessory building (excluding greenhouses) greater than two hundred fifty (250) square feet shall be subject to the same exterior construction material(s) as the main building or structure.

B. Less Than or Equal to 250 Square Feet

Metal or wood may be used as an exterior construction material for an accessory building or structure up to two hundred fifty (250) square feet.

C. Building Permits

1. Required for buildings greater than two hundred fifty (250) square feet.
2. Not required for buildings less than or equal to two hundred fifty (250) square feet. A permit may be required for flatwork, electrical, plumbing, etc.

**4.2.5. Carports**

A. New Structures

The construction of a carport shall be prohibited.

B. Existing Structures

Dwellings with carports constructed prior to June 12, 2014 and are not in compliance with the above regulations shall be deemed a nonconforming use.

**4.3. SUPPLEMENTARY REGULATIONS**

**4.3.1. Residential Lot Regulations**

A. Minimum Residential Lot Area and Exceptions

The minimum lot area for the various zoning districts shall be in accordance with the individual districts except that a lot having less area than herein required which was an official "lot of record" prior to the adoption of this Zoning Ordinance, June 12, 2014, may be used for a single



family dwelling and no lot existing at the time of passage of this Zoning Ordinance shall be reduced in area below the minimum requirements set forth in the respective district.

**B. Location of Dwellings and Buildings**

**1. One Main Building for Single Family Use**

Only one main building for single family use, with permitted accessory buildings, may be located upon a lot or unplatted tract.

**2. Access**

Every means of access shall have a minimum lot width of forty (40) feet at the property line.

**4.3.2. Repetition of Residential Unit Design**

**A. Applicability Zoning Districts**

The regulations of this section shall apply to all Single Family districts.

**B. Repetition of Floor Plan and Elevation**

A minimum of nine (9) platted residential lots must be skipped on the same side and six (6) skipped on the opposite side of a street before rebuilding the same single family residential unit with an identical (or nearly identical) street elevation design. The same floor plan shall not be repeated on neighboring, side by side lots, or directly across the street.

**4.3.3. Front Yard Setback**

**A. Corner Lots**

On corner lots, the front yard setback shall be observed along the frontage of both intersecting streets, unless shown specifically otherwise on a Final Plat, according to 4.3.1 Residential Lot Regulations.

**B. Approved Plats with Established Building Line**

The required front yard setback shall comply with the building line so established by such Zoning Ordinance or plat, where a building line has been established by a plat or by ordinance prior to June 12, 2014, and such line required is a greater or lesser front yard setback than prescribed by this Zoning Ordinance for the district in which the building line is located.

**C. Front Yard Measurements and Considerations**

Refer to 8.4.1 Front Yard Measurement for illustration.

1. 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.
2. Eaves and roof extensions or a porch without posts or columns may project into the required front yard setback for a distance not to exceed four (4) feet.

**D. Minimum Front Yard Setback Reduction and Average Setback**

Refer to 8.4.2 Staggered Front Yard Setbacks for illustration.

1. The minimum front yard setback requirements may be reduced by a maximum of five (5) feet for all single family lots provided that at least fifty (50) percent of the structures on a given block are set back an additional five (5) feet from the original setback.
2. The average setback along the block shall equal the original setback requirement.
3. The purpose of this average setback is to encourage a variety of front yard setbacks along a street.
4. In no case shall the average front yard setback be less than the minimum established in Table 2.4: Residential Districts Development Standards Table.

**E. Future Right-of-Way Line**

Where a future right-of-way line has been established for future widening or opening of a street or thoroughfare, upon which a lot abuts, then the front or side yard shall be measured from the future right-of-way line.

**4.3.4. Side Yard Setbacks**

**A. Corner Lot Side Yard Setbacks**

Refer to 8.4.5 Corner Lot Setbacks for illustration.

1. On a corner lot used for single family dwellings, both street exposures shall be treated as a front yard.

**B. Open and Unobstructed Side Yards**

1. Every part of a required side yard shall be open and unobstructed from the ground upward except for gardening materials and portable accessory buildings as permitted herein. Ordinary projections of window sills, cornices, and other architectural features not to exceed twelve (12) inches into the required side yard, and roof eaves projecting not to exceed four (4) feet into the required side yard.
2. Air conditioning compressors, pool machinery and equipment, and similar appurtenances are permitted in the side yard, but shall be located a minimum of four (4) feet from the property line.
3. The driveway to the main dwelling garage may be constructed in the side setback to the following extent:
  4. 1. For zoning districts with 7 ft setbacks, the driveway may extend up to four feet into the setback area (must stay at least three feet from the property line).
  5. 2. For zoning districts with 12 ft setbacks, the driveway may extend up to seven feet into the setback area (must stay at least 5 feet from the property line)

#### **C. Garage Door Side Yard Setback**

1. The face (meaning garage door) of a garage that faces a side yard (a swing-in garage) must be setback a minimum of twenty-five (25) feet from the side property line.

#### **4.3.5. Wind Energy Conversion Systems**

The construction of a wind energy conversion system shall be prohibited.

#### **4.3.6. Special Height Regulations**

##### **A. Use Height Exceptions**

Water stand pipes and tanks, church steeples, domes, spires, free-standing flag poles, scenic loft, public and private school buildings, municipal structures, and public/semi-public institutional buildings may be erected to exceed two and one half (2.5) stories with an approved Site Plan and Special Use Permit.

#### **4.3.7. Modular (Industrialized) Home**

##### **A. Permitted Zoning Districts**

A modular home is permitted in single family zoning districts.

##### **B. Requirements**

The following requirements shall be met for modular homes.

1. The modular home meets or exceeds all building code requirements that apply to other dwelling units concerning on-site construction;
2. The modular home conforms to all applicable zoning standards for the respective zoning district;
3. The modular home is affixed to an approved permanent foundation system;
4. The Building Inspector is so notified in writing for the purpose of establishing procedures for the inspection, issuing of building permits, and compliance with the Texas Manufactured Housing Standards Act (Article 1221fV.T.C.S.);
5. The modular home is placed on an approved platted lot;
6. Per the Texas Occupations Code §1202.253, Modular (Industrialized) homes shall:
  - a. 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 industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll for each county in which the properties are located;
  - b. Have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the industrialized housing is proposed to be located; and

c. Comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings;

7. For the purpose of this section, "value" means the taxable value of the industrialized housing and the lot after installation of the housing.

#### **4.3.8. Exterior Construction of Buildings**

##### **A. Single Family - Siding**

1. The exterior facades of a main building, excluding glass windows and doors shall be constructed of eighty (80) percent masonry on all new construction. Cementitious fiber board shall not be considered masonry. Cementitious fiber board may be used to replace existing siding on existing structures. Cementitious fiber board may also be used for architectural features, including window box-outs, bay windows, roof dormers, garage door headers, columns, or other architectural features approved by the Director.

##### **B. Single Family – Roof Pitch**

All roof pitches shall have a minimum rise of six (6) inches over twelve (12) inches of run. For two story houses, roofs over entryways may be reduced to two (2) over twelve (12) pitch with the approval of the director.

##### **C. Accessory Structures**

Accessory structures greater than two hundred fifty (250) square feet must meet the eighty (80) percent masonry requirement and must be of the same general materials and to the greatest extent possible match the appearance of the main dwelling.

#### **4.3.9. Propane Tanks**

##### **A. Front Yard**

Placement of an above ground propane tank(s) in the front yard is prohibited.

##### **B. Side and Rear Setbacks**

Placement of propane tank(s), above ground or buried, shall meet the side and rear yard setbacks.

**SECTION 5: REVIEW BODIES****5.1. TOWN COUNCIL****5.1.1. Town Council Authority for Amendments to this Zoning Ordinance**

The Town Council may from time to time amend, supplement or change by ordinance the text of this Zoning Ordinance on its own initiative or upon petition for a text amendment.

**5.1.2. Town Council Authority for Deciding Applications and Appeals**

In accordance with Chapter 211 of the Texas Local Government Code, the Town Council shall make the final decision on applications and appeals. In addition, for any other applications not otherwise delegated to another body or Town official by Town Ordinance, the Town Council shall make the final decision.

**5.1.3. Judicial Review**

The Town Council's decision is final unless appealed to district court within ten (10) days after the Council's decision is filed in the Office of the Town Secretary. Such appeal must be made in accordance with Chapter 211 of the Texas Local Government Code. The Council's decision is filed in the Office of the Town Secretary when the Council votes and makes its decision in open session.

## **SECTION 6: DEVELOPMENT REVIEW PROCEDURES**

All territory annexed to the Town shall be classified as Single Family Residential – District 5. The procedure for establishing permanent zoning on annexed territory shall conform to the procedure set forth in section 6.5 Amendments to the Zoning Ordinance / Districts and Administrative Procedures of this Zoning Ordinance.

### **6.1. ZONING UPON ANNEXATION**

#### **6.1.1. Rules of Newly Annexed Territory Classified as Single Family Residential – District 5**

All land or territory annexed by the Town shall be initially zoned as Single Family Residential – District 5. Permanent zoning shall be placed on the land as soon as is practicable.

##### **A. Building Permit or Certificate of Occupancy Required**

Except as provided in Chapter 43 of the Texas Local Government Code, no person shall erect, construct, proceed or continue with the erection or construction of any building or structure or cause the same to be done in any newly annexed territory to the Town without first applying for and obtaining a Building Permit or Certificate of Occupancy from the Town.

##### **B. Limited Permits within Newly Annexed Land**

No permit for the construction of a building or use of land shall be issued by the Town other than a permit which will allow the construction of a building or use permitted in District 5, unless and until such territory has been classified in a zoning district other than District 5, by the Town Council in the manner prescribed by law except as provided in 6.1.1.C.

##### **C. Application for Building Permit or Certificate of Occupancy with Newly Annexed Land**

A building permit shall be approved if the applicant shows the following:

- a. The use was already legally operating on the date the annexation proceedings were initiated for the property; or
- b. The use was not already operating on the effective date of annexation, but was planned for the property before the 90<sup>th</sup> day before the effective date of annexation, and:
  1. One or more licenses, certificates, permits, approvals, or other form of authorization by a governmental entity were required by law for the planned land use; and
  2. A completed application for the initial authorization was filed with the governmental entity before the date the annexation proceedings were instituted. For the purpose of this section, a completed application is filed if the application includes all documents and other information designated as required by the governmental entity in a written notice to the applicant. For the purposes of this section, the date the annexation proceedings were instituted means the date the Town Council approves the ordinance annexing the property.
2. If a use described in 6.1.1.C does not comply with the zoning for the property, such uses shall be allowed to continue as a nonconforming use. Notwithstanding any provision contained

herein, the Town may terminate a nonconforming use pursuant to Section 43.002(c) of the Texas Local Government Code even if it existed or was planned prior to the institution of annexation proceedings.

3. The property owner has a right to appeal the Town's decision, if an appeal is submitted to the Director in writing within ten (10) calendar days after the Town Council voted and made their determination in open session. After receiving and reviewing the appeal application, the Town Council, with affirmative votes by three fourths of the alderman of Town Council, may authorize the issuance of a Building Permit or Certificate of Occupancy or may disapprove the application pending permanent zoning.

## **6.2. PLATTING PROPERTY NOT ZONED**

### **6.2.1. Zoning Required for Platting**

The Town Council shall not approve any plat of any subdivision within the Town Limits until the area covered by the proposed plat shall have been zoned by the Town Council as described in section 6.1.

### **6.2.2. Annexation Proceedings Postpones Platting Approvals**

The Town Council may conditionally approve any plat or any subdivision within any area where a petition or ordinance for annexation is pending until such annexation shall have been approved by ordinance of the Town Council.

### **6.2.3. Subdivision Ordinance Platting Requirements**

Refer to the Subdivision Ordinance for platting requirements within the Town limits and its extraterritorial jurisdiction.

### **6.2.4. Simultaneous Zoning and Annexation**

Zoning and annexation requests may be simultaneously considered. The Town Council must adopt the annexation ordinance prior to adopting an ordinance for permanent zoning.

## **6.3. CREATION OF BUILDING SITE**

### **6.3.1. Conditions Required for Building Site, Tract, or Lot Creation**

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

#### **A. Approved Plat of Record**

The lot or tract is part of a plat of record, properly approved by the Town Council, and filed in the Plat Records of Denton County, Texas.

#### **B. Annexation**

The plat, tract, or lot faces upon a dedicated street and was separately owned prior to annexation to the Town, in which event a building permit for only one main building conforming to all the

requirements of this Ordinance may be issued on each such original separately owned parcel without first complying with section 6.3.1.A Approved Plat of Record.

C. Approved Site Plan

The plat or tract is all or part of a Site Plan officially approved by the Town Council, and compliance has been made with provisions and improvements approved on such Site Plan for all utility and drainage easements, dedication of streets, alleys and other public improvements required to meet the standards established for the platting of land.

**6.3.2. Building Permit Issuance Requires a Plat of Record**

A plat of record shall be created prior to the issuance of a Building Permit. (See Subdivision Ordinance)

**6.4. SITE PLAN REQUIREMENTS**

**6.4.1. Applicability**

The Site Plan review process shall apply to all residential development.

**6.4.2. Exemptions**

Temporary field construction offices/staging areas as permitted by the Town are exempted from the requirements of section 6.4 Site Plan Requirements.

**6.4.3. Submission of Applications**

A. Coordinating Official

Applications for approval of plans required by section 6.4 Site Plan Requirements must be submitted to the Director.

B. Other Regulations for Applications

Applications are also governed by section 6.6 Vesting and Application Requirements.

**6.4.4. Fees, Forms and Procedures**

A. Schedule of Fees

The Town Council shall establish a schedule of fees relating to the Site Plan approval process.

B. Delinquent Taxes

No Site Plan shall be approved for properties with delinquent Town taxes.

C. Procedures, Forms and Standards

The Director shall establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for Preliminary Site Plans and Site Plans.

**6.4.5. Preliminary Site Plan**

A. Preliminary Site Plan General



A Preliminary Site Plan is the first plan in the Site Plan approval process. A Preliminary Site Plan is less detailed and specific than a Final Site Plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. A checklist of all required information to be depicted on a Preliminary Site Plan shall be maintained by the Building Inspector. The purpose of the plan is to:

1. Ensure compliance with applicable development regulations and previously approved, valid plans affecting development of the property;
2. Provide satisfactory vehicular and pedestrian connectivity to adjoining developments and within the site;
3. Promote the long term viability of multi-parcel developments by providing visibility of internal tracts;
4. Determine the preliminary design of drainage facilities and utilities; and
5. Promote the health, safety and welfare of the public.

**B. Preliminary Site Plan Applicability**

**1. Prerequisite for a Site Plan**

Except as provided in section 6.4.6 Site Plan, an approved, valid Preliminary Site Plan shall be required prior to the consideration of a Site Plan for development of property set forth in 6.4.6 Site Plan.

**2. Area Scope**

- a. A Preliminary Site Plan must include all contiguous property of common ownership, except that approved platted lots that are not part of the intended development may be shown for informational purposes only.
- b. Property which has been subdivided by metes and bounds, regardless of ownership, shall be included in the Preliminary Site Plan; since the subdivision of land was not conducted in accordance with the Subdivision Ordinance.

**3. A Site Plan may be submitted in lieu of a Preliminary Site Plan.**

**C. Preliminary Site Plan Application Procedure and Requirements**

**1. Preliminary Site Plan Pre-Application**

- a. Before preparing a Preliminary Site Plan, it is recommended that the applicant meet with an authorized representative of the Town to allow the applicant to learn the general procedures for approval, and to review the general plan of the proposed development, but the development/project shall not be discussed in sufficient detail to provide the Town with fair notice of the project.
- b. No applications for a permit may be submitted to or accepted for filing with representatives of the Town during the meeting.

**2. Preliminary Site Plan General Application**

The property owner shall file an application for the approval of a Preliminary Site Plan. This application shall include the information listed on the Town's Preliminary Site Plan Application Form and Checklist, which shall be created and maintained by the Director.

### 3. Preliminary Site Plan Details for Tracts Containing Five (5) Acres or Less

Existing or proposed tracts which contain five (5) or fewer acres shall depict a greater level of detail than tracts in excess of five (5) acres. A checklist of the required information shall be maintained by the Director.

### 4. Preliminary Site Plan Additional Requirements

In addition to meeting the requirements for Preliminary Site Plan approval, the following supplemental information may be necessary (such applications and plans shall be accepted for filing, however, prior to approval of the Preliminary Site Plan, and failure to submit such applications prior to approval of the Preliminary Site Plan shall be grounds for denial or rejection of the Preliminary Site Plan):

- a. Preliminary Plat, if applicable,
- b. Preliminary Utility Plans,
- c. Traffic Impact Analysis, if required,
- d. Traffic Circulation Study, if required,
- e. Landscape Plan,
- f. Flood Study, if required.

### 5. Preliminary Site Plan Standards of Approval

The Town Council may approve, conditionally approve, table or deny a Preliminary Site Plan based on:

- a. Conformance with the Comprehensive Plan and adopted design guidelines;
- b. Compliance with the Zoning Ordinance and other applicable regulations and previously approved, valid plans for the property;
- c. Impact on the site's natural resources (i.e., floodplain, drainage, trees, topography, etc.) but excluding fence rows;
- d. Effect on adjacent and area property and land use;
- e. Safety and efficiency of vehicular and pedestrian circulation, traffic control and congestion mitigation;
- f. Safety and convenience of off-street parking and loading facilities;
- g. Access for firefighting and emergency equipment to buildings;
- h. Use of landscaping and screening to shield light, noise, movement or activities from adjacent properties, and to complement the design and location of buildings and parking; and
- i. The location, size and configuration of usable open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

### 6. Preliminary Site Plan Effect

- a. Town approval of a Preliminary Site Plan shall constitute authorization by the Town for the owner(s) to submit an application for Site Plan approval for development of the entire site or a portion thereof provided that the Site Plan substantially conforms to the Preliminary Site Plan and any conditions attached to its approval.
- b. Except where authorized by ordinance, a Preliminary Site Plan may not be used to approve an exception to development regulations.

- c. Where an approved Preliminary Site Plan conflicts with an adopted regulation and no variance or exception is expressly approved, the regulation shall apply.

#### 7. Preliminary Site Plan Lapse

- a. The approval of a Preliminary Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Preliminary Site Plan shall expire unless the applicant demonstrates to the Town Council that progress has been made toward completion of the project for which the Preliminary Site Plan was approved or that a Site Plan has been approved.
- b. An expired Preliminary Site Plan approval is null and void and the project shall be considered dormant.
- c. If the progress towards completion is only for a portion of the property, the Preliminary Site Plan for the remaining property shall expire.
- d. Any new Preliminary Site Plan submitted for review and approval shall be subject to the then-existing regulations at the time of submittal.

#### 8. For appeals, see 6.14 APPEALS AND THE APPEAL PROCESS.

### 6.4.6. Site Plan

#### A. Site Plan General Information

A Site Plan is the final plan required in the Site Plan approval process. The Site Plan is a detailed plan of the public and private improvements to be constructed. The purpose of the plan is to:

1. Ensure compliance with applicable development regulations and previously approved, valid plans affecting development of the property;
2. Coordinate and document the design of public and private improvements to be constructed;
3. Coordinate the subdivision of land, including the granting of easements, rights-of-way, development agreements and provision of surety;
4. Promote the health, safety and welfare of the public; and
5. Identify and address environmental concerns (i.e., floodplain, drainage, trees, topography, etc.).

#### B. Site Plan Applicability

##### 1. Prerequisite for the Approval of Any Construction Plan and Permit:

An approved, valid Site Plan shall be required prior to the approval of any construction plan and permit for and development of the following.

- a. Residential development having more than two dwelling units, including attached single family housing, townhomes and condominiums;

##### 2. Exempted Development

The following types of development are exempted from the requirements of this 6.4.6 Site Plan

- a. Agricultural buildings; and
- b. Temporary field construction offices / staging areas as permitted by the Building Inspection Division.

### C. Site Plan Application Procedure and Requirements

#### 1. Site Plan Pre-Application

- a. Before preparing a Site Plan, the applicant may meet with Town staff and/or a Town Official to allow the applicant to learn the general procedures for approval and to review the concept of the proposed development, if desired by applicant.
- b. No application for a permit may be submitted to or accepted for filing with the Town staff or Town official during the meeting.

#### 2. Site Plan General Application

The property owner shall file an application for the approval of a Site Plan. This application shall include the information listed on the Town's Site Plan Application Form and Checklist, which shall be created and maintained by the Director.

#### 3. Site Plan Additional Requirements

The following plans shall be submitted with a Site Plan application and approval is necessary prior to final authorization for development:

- a. Final Plat or Replat,
- b. Engineering plans,
- c. Traffic Impact Analysis, if applicable,
- d. Landscape plans, if applicable
- e. Flood Study, if required, or
- f. Other approvals as required by ordinance or resolution.

#### 4. Site Plan Standards of Approval

##### a. Approval Criteria

1. Conformance with the Comprehensive Plan and adopted design guidelines.
2. Compliance with the Zoning Ordinance and other applicable regulations and previously approved, valid plans for the property.
3. The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.
4. The width, grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.
5. The use of landscaping and screening to provide adequate buffers to shield light, noise, movement or activities from adjacent properties when necessary, and to complement the design and location of buildings and be integrated into the overall site design.
6. The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.
7. Protection and conservation of soils from erosion by wind or water or from excavation or grading.
8. Protection and conservation of water courses and areas subject to flooding.
9. The adequacy of streets, water, drainage, sewerage facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.

10. The Town shall not take action on a Site Plan for property where Town taxes are delinquent.

#### 5. Site Plan Effect

- a. Approval of a Site Plan is the Town's authorization to apply for approval of building permits and to receive approval of engineering plans.
- b. During the time the Site Plan remains valid the Town shall not apply any additional requirements concerning building placement, streets, drives, parking, landscaping or screening.
- c. Site Plan approval is separate and distinct from other permits and approvals as may be required by the Town and other regulatory agencies.
- d. Approval of a Site Plan shall not affect other applicable regulations concerning development and land use.
- e. Except where authorized by ordinance, a Site Plan may not be used to approve a variance to development regulations.
- f. Where an approved plan conflicts with an adopted regulation and no variance is expressly approved, the regulation shall apply.

#### 6. Site Plan Lapse

##### a. Applications filed on or after September 1, 2005

1. For applications filed on or after September 1, 2005, the approval of a Site Plan shall be effective for a period of two (2) years from the date of filing of the application with the Town at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Town Council that progress has been made towards completion of the project for which the Site Plan was approved.
2. Submission and receipt of approval of engineering plans and building permits prior to expiration of the Site Plan shall be evidence of progress towards completion.
3. However, if engineering plans and permits have been approved only for a portion of the property or if the progress towards completion is only for a portion of the property and/or improvements, the Site Plan for the remaining property and/or improvements, together with any Preliminary Site Plan for the property, shall expire.

##### b. Expired Site Plans

1. For all expired Site Plans, the applicant shall be required to submit a new Site Plan and if required, a new Preliminary Site Plan, for review and approval by the Town Council subject to the then existing regulations.
2. Site Plan approval shall not expire upon completion of the improvements shown on the plan. Permits must remain valid during the construction process.
3. Subsequent additional development, site modifications and redevelopment shall be permitted in accordance with 6.4.8 Additional Development and Redevelopment and shall be considered a new project subject to the then existing ordinances, laws and regulations of the Town.

7. For appeals, see section 6.14 Appeals and the Appeal Process.

#### **6.4.7. Revocation of Site Plan Approval**

The Town Council may revoke approval of a Preliminary Site Plan or Site Plan if it determines that the conditions of the approval have not been met or if the plan contains, or is based upon, incorrect information or if it is determined that it was obtained using fraud or deceit.

#### **6.4.8. Additional Development and Redevelopment**

##### **A. Additional Development, Site Modifications, or Redevelopment**

Following the completion of improvements shown on an approved Site Plan, additional development, site modifications, or redevelopment of the site shall be permitted subject to the approval of a revised Site Plan, which shall be considered a new project and shall require submittal of a revised Site Plan and the approval of the Town Council under the regulations, requirements and procedures then in effect.

##### **B. Minor Expansions and Redevelopment**

Minor expansions and redevelopment may be approved by the Director under the terms of 6.4.7 Revocation of Site Plan Approval.

#### **6.4.9. Design Standards and Specifications**

##### **A. Incorporation of Design Standards and Specifications**

In addition to the requirements of this Ordinance, site plans are required to meet the standards contained in the following regulations:

1. Subdivision Ordinance;
2. Fire Code;
3. Engineering Design Standards and Construction Details;
4. Any design standards and specifications approved by the Town Council following the enactment of this provision; and
5. Building and/or Residential Code;
6. Other technical codes adopted by the Town.

### **6.5. AMENDMENTS TO THE ZONING ORDINANCE / DISTRICTS AND ADMINISTRATIVE PROCEDURES**

#### **6.5.1. Authority to Amend Ordinance**

##### **A. Authority**

The Town Council may from time to time, after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning District Map. All amendments shall require an affirmative vote by three fourths of all alderman of the governing body.

##### **B. Changes or Amendments**

1. Any zoning district boundary amendment (also referred to as a zoning map amendment) may be requested for consideration by the:
  - a. Town Council

- b. The owner of the real property (or the authorized representative of an owner of the real property).

C. Zoning Amendment Application Submittal

1. Each applicant for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall submit a zoning application to the Town which shall be accompanied by payment of the appropriate fee as established by the Town.
2. Applications must be complete for acceptance.

D. Additional Considerations

1. Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner or by the Town Council on its own motion when it finds that public benefit will be derived from consideration of such matter.
2. In the event the ownership stated on an application and that shown on the Town records is different, the applicant shall submit written proof of ownership.
3. The advertisement of a zoning change or application for a Specific Use Permit shall be initiated by staff upon receipt of applicant's written response to staff's recommendation. The response shall indicate whether the applicant agrees or disagrees with the staff recommendation. When the applicant disagrees with any portion of the recommendation, the applicant shall cite the reasons for the disagreement.

E. Zoning Application Details

1. To ensure the submission of adequate information, the Director is hereby empowered to maintain and distribute a list of specific requirements for zoning applications and update or modify such requirements as deemed necessary.
2. Upon periodic review, the Director shall have the authority to update such requirements for zoning application details.

**6.5.2. Zoning Amendments Process, Public Hearing and Notice**

Chapter 211 of the Texas Local Government Code, as amended, shall apply when considering amendments to this Zoning Ordinance.

**6.5.3. Failure to Appear before the Town Council**

The Town Council may deny a zoning application if the applicant or representative fails to appear at one (1) or more hearings before the Town Council.

**6.5.4. Town Council Consideration**

A. Town Council Consideration and Action

Town Council, after the public hearing is closed, may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application.

B. Town Council Vote Required for Protested Amendments

1. Documented Protest Requirements
  - a. Documented Protest Filing

Protests against proposed amendments shall be filed at least seven (7) calendar days before the date of the public hearing.

**b. Documented Protest Participant Requirements**

1. Interior Protester: The owners, duly signed and acknowledged, of twenty (20) percent or more of the land area included within a proposed amendment boundary may participate in a documented protest for a specific case.
2. Exterior Protester: The owners, duly signed and acknowledged, of twenty (20) percent or more of the land area within a two hundred (200) foot radius of the exterior boundary of the area included in a proposed amendment may participate in a documented protest for a specific case.

**2. Documented Protest Effect**

If a documented protest against a proposed amendment, supplement, or change to a zoning regulation or boundary has been filed with the Director, then such amendments shall not become effective except by the affirmative vote by three-fourths of all alderman of the governing body.

**C. Final Approval and Ordinance Adoption**

1. Approval of any zoning change or amendment by the Town Council at the scheduled public hearing shall constitute instruction to Town staff to prepare an appropriate ordinance for final formal passage at a subsequent time.
2. If finally approved by the required number of votes, the ordinance shall be executed by the Mayor.
3. The Ordinance shall become effective from and after its adoption and publication as required by law.

**6.6. VESTING AND APPLICATION REQUIREMENTS**

**6.6.1. Zoning Applications**

**A. Complete Applications Required**

No zoning application shall be accepted for filing or process unless such request is accompanied by a complete application and all documents required by and prepared in accordance with the requirements of the Zoning Ordinance and any other applicable ordinance and it is filed with the Director.

**B. Denial of Zoning Applications**

1. The acceptance or processing by any Town official of a zoning application prior to the time a complete application is submitted hereby is deemed to be null and void and, upon discovery, shall be ground for denial or revocation of such application.
2. A typographical error shall not constitute an incomplete application.

**6.6.2. Incomplete Application Procedures**

**A. Period of Time for Determining Incomplete Application**



On or before the tenth (10<sup>th</sup>) calendar day after an application for a permit is filed with the Director, the Town shall determine if an application is complete.

**B. Determination of Incomplete Applications**

If the application for a permit does not contain all information required by an ordinance, law or regulation governing the application for permit, then it shall be considered incomplete.

**C. Town Shall Provide Notice of Incomplete Applications**

**1. Written Notice of Delivery Methods**

The Town shall provide written notice of the failure to the applicant by any one of the following methods:

- a. Mail,
- b. Email,
- c. Facsimile,
- d. Delivery service.

**2. Written Notice Contents**

The Town shall specify within the written notice the following:

- a. The documents and information necessary to make the application complete.
- b. The date by which the documents and information must be received.
- c. The date the application for a permit will expire if all of the requested documents and information are not received by the Town.

**D. Expiration of Incomplete Applications**

1. If notice of an incomplete application is sent to the applicant, then the application for a permit shall expire on the forty-fifth (45<sup>th</sup>) calendar day after the date the application for a permit was filed if the application for a permit is not made complete by the applicant.
2. Any filing fee paid may be retained by the Town for reviewing the application for a permit for completeness.
3. Thereafter a new application for a permit, including but not limited to the filing fee, is required if the applicant wishes it to be considered.
4. The Town may send written notice to the applicant that the application for permit has expired, but it is not required to do so and failure of the Town to send notice that a permit has expired, shall not prevent the permit from expiring.
5. Failure to provide requested items within the timeframe will result in the case file being closed on the forty-sixth (46<sup>th</sup>) calendar day after date of application for a permit was filed. A new case with all fees may be required on all subsequent applications.

**6.6.3. Filed Applications**

**A. Applications Received**

The application for permit shall be considered filed on the date that it is received by the Town.

#### **6.6.4. No accrual of Vested Rights from Specific Applications**

No rights derived from Chapter 245 of the Texas Local Government Code, as amended, shall accrue from an application for a permit that expires, from an application for a permit that is denied or from an application that does not provide fair notice.

### **6.7. DORMANT DEVELOPMENT PROJECTS / EXPIRED PROJECTS**

#### **6.7.1. Expiration Date for Project and Permits File on or After September 1, 2005**

##### **A. Projects**

For projects commenced on or after September 1, 2005 by the filing of an application for a permit, the project shall expire on the fifth (5<sup>th</sup>) anniversary of the date the first application for a permit that was approved by the Town was filed if there is not progress towards completion.

1. Following expiration of a project, any new applications for permits submitted for a project shall be subject to the then existing regulations.

##### **B. Permits**

Applications for a permit filed on or after September 1, 2005 for which the application does not expire pursuant to 6.6.2 Incomplete Application Procedures or for which the permit is subsequently approved, the application for a permit and/or the permit shall expire two (2) years from the date the application for a permit was filed if there is no progress towards completion.

#### **6.7.2. Expiration Date for Permits Filed before September 1, 2005**

##### **A. Expiration Date Specified**

Applications for permits and projects filed with the Town before September 1, 2005 shall be valid for the period of time specified in the ordinances that existed on the date the application for permit was filed.

##### **B. No Expiration Date Specified**

If the approved application did not have an expiration date, then the permit shall be valid for eighteen (18) months beginning on the date the application for permit was filed.

#### **6.7.3. Progress towards Completion Defined**

##### **A. Progress to completion means that:**

1. The approved application did not have an expiration date; and any one or more of the following had occurred:
  - a. An application for a Final Plat or plan was properly filed in accordance with Town ordinances, and said Final Plat or plan has not expired.
  - b. A good-faith attempt was made to file an application for a permit required to begin or continue towards completion of the development.
  - c. Costs were incurred for developing the project, including, without limitation, costs associated with development (but not including the cost of land acquisition) in the aggregate amount of

five (5) percent of the most recent appraised value of the real property on which the project is located.

d. Fiscal security was posted with the Town, or other regulatory agency, to ensure performance of obligations required by Town ordinances and/or regulatory agencies.

e. Utility connection fees or impact fees for the project were paid to the appropriate authority or regulatory agency.

## **6.8. VARIANCE PROCEDURES**

### **6.8.1. Purpose and Applicability**

#### **A. Cases for which a Variance may be Granted**

The Town Council may authorize, in specific cases, a variance from the terms of a zoning ordinance for the following:

1. Height;
2. Yard;
3. Lot Area;
4. Exterior structure; or
5. Off-street parking

#### **B. Variance Criteria**

A variance may be granted only if the Town Council finds that:

1. The requested variance is not contrary to the public interest; and
2. The requested variance does not violate the intent of the Zoning Ordinance, as amended; and
3. The requested variance allows the spirit of the Zoning Ordinance to be observed and substantial justice done; and
4. The requested variance is consistent with the adopted Comprehensive Plan; and
5. The requested variance would not cause injury to or restrict development on any other parcel of land; and
6. The requested variance is not needed merely to promote economic gain or to prevent economic loss; and
7. A literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. An unnecessary hardship only exists when a variance is needed to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
8. The unnecessary hardship is not self-created or personal to the owner of the parcel of land.

#### **C. Variance Limitations**

##### **1. Completed Action Required Before a Variance**

An application or request for a variance shall not be heard or granted with regard to any parcel of property or portion thereof upon which a Preliminary Site Plan, Site Plan, Preliminary Plat or

Final Plat, when required by the Zoning Ordinance or the Subdivision Ordinance for any parcel of property or portion thereof, has not been finally acted upon by the Town Council.

2. Exhausted all Other Options

The administrative procedures and requirements of the Zoning Ordinance, and any amendments thereto, with regard to Town Council consideration and action, on Preliminary Site Plans, Site Plans, Preliminary Plats, and Final Plats, must be exhausted prior to requesting a variance.

D. Public Hearing Required

1. The Town Council shall hold a public hearing for each variance applicant and shall provide the notice and public hearing required by this ordinance.
2. At the public hearing, the Town Council shall consider public comments and shall approve, approve with conditions or deny the variance application.

E. Application Form and Fee

A completed application form with payment in full is required prior to scheduling a public hearing. A site plan shall be provided at the time the application is submitted.

F. Approval

After receiving and reviewing the variance application, the Town Council, with affirmative votes by three-fourths of the alderman of Town Council, may authorize the variance.

G. Expiration

A variance granted by the Town Council shall expire:

1. If construction of the project described in the application for variance has not commenced within one (1) year from the date the variance is granted; or
2. If construction of the project described in the application for variance has commenced within one (1) year, but has not been completed within two (2) years from the date of the granting of the variance.

H. Appeal

The Town Council's decision is final unless appealed to district court within ten (10) days after the Council's decision is filed in the Office of the Town Secretary. Such appeal must be made in accordance with Chapter 211 of the Texas Local Government Code. The Council's decision is filed in the Office of the Town Secretary when the Council votes and makes its decision in open session.

**6.9. SPECIAL EXCEPTION FOR BUILDING INSPECTOR ERROR**

**6.9.1. Special Exception Criteria**

The Town Council may issue a special exception to grant nonconforming status for a structure that did not conform to this Ordinance when it was constructed or established, if the Town Council finds:

- A. The nonconformity was clearly and specifically shown in plans and specifications duly submitted to obtain a Town permit;

- B. Before the work was done, neither the owner, the designer, the surveyor, the contractor nor any other person assisting with the work knew about the nonconformity;
- C. The nonconformity was clearly covered by the Town permit (the same permit for which the plans and specifications were submitted), and the permit was otherwise regularly issued;
- D. After learning of the nonconformity, the owner promptly conferred with the administrative official and voluntarily halted any further nonconforming work;
- E. The item will cause no health or safety hazard and no significant impact upon another person or property; and
- F. The item can be brought into conformity with this Ordinance within the time period specified in the special exception, at a modest or reasonable cost.
- G. Exception: Bringing the item into conformity need not be required if the Town Council finds that the impact of the item on other persons or properties is either nil or extremely small.

#### **6.9.2. Time to Comply; Conditions**

No such special exception is effective unless it specifies a time period within which the item must be brought into conformity with this Ordinance (if required). Nonconforming status granted for a specified time period is lost when the specified time period expires or if ownership is sooner transferred (unless the new owner acknowledges both the special exception and the date the time period expires, by written instrument filed with the Director before the transfer). Any special exception issued under this section may contain conditions designed to:

- A. Reduce nonconformity;
- B. Mitigate (or compensate for) the effects of nonconformity;
- C. Achieve conformity sooner than the specified time period; or
- D. Any combination of the foregoing.

#### **6.10. REINSTATEMENT OF NONCONFORMING RIGHTS**

##### **A. Loss of Nonconforming Rights Status**

If the Director determines that a nonconforming use has been permanently abandoned under 1.4.1.A Abandonment of Nonconforming Use and has lost its nonconforming rights, the use shall not be instituted on that parcel or other parcel in any district which does not permit the abandoned use.

##### **B. Notice to Owner and/or Operator Required**

Notice of this determination shall be made in writing to the owner and/or operator of the abandoned nonconforming use.

##### **C. Application for Nonconforming Rights Reinstatement**

1. The owner and/or operator of the abandoned nonconforming use may submit a written application to the Town Council to have the nonconforming rights reinstated.

2. Written application for reinstatement of nonconforming rights must be made within ten (10) business days after the Director issues the written notice of determination that a use has been permanently abandoned.

**D. Town Council Decision**

The Town Council may reinstate nonconforming rights only if the Town Council finds there was clear intent not to abandon the use even though the use was discontinued for six (6) months or more.

**6.11. LANDSCAPE PLAN REVIEW**

**6.11.1. Process**

**A. Landscape Plan Approval**

1. The provisions of this section shall be administered and enforced by the Director.
2. The required landscape documents shall be submitted for review with the Preliminary Site Plan and Site Plan required in this Ordinance.
3. Permits for building, paving, utilities, or construction shall not be issued prior to an approval and construction release of required landscape documents by the Town, unless approved by the Director.
4. An approved Landscape Plan shall expire at the same time that the approved Site Plan with which it was submitted expires.

**6.11.2. Review Criteria**

**A. Objectives**

The following criteria shall be used to evaluate proposed Landscape Plans.

1. The landscape design should have proportion, balance, unity, variety of species, and a variety of color throughout the seasons.
2. Landscape designs should define spaces including entrance areas, pedestrian paths, vehicular avenues, parking areas, sitting areas, etc.
3. As an architectural feature, landscape designs should visually soften the mass of the buildings, parking areas, and other structures.
4. Indigenous landscape materials should be selected whenever feasible.
5. Landscaping should:
  - a. Reduce the reliance on irrigation, thus conserving the public water supply.
  - b. Minimize erosion;
  - c. Shade seating, walking and outdoor activity areas;
  - d. Provide a barrier between vehicles and pedestrians;
  - e. Diminish the intrusion of headlights and other glare;
  - f. Provide a natural habitat for birds and other wildlife;
  - g. Shield buildings from winter wind and summer sun thereby conserving energy; and
  - h. Enhance overall character and ecological function of the site through and restoration of native vegetation, and eradication of invasive species.

## **6.12. PLANNED DEVELOPMENT APPLICATION AND REVIEW**

### **6.12.1. Planned Development (PD) Requirements**

#### **A. Modified Development Requirements**

Development requirements for each PD District shall be set forth in the amending Ordinance granting the PD District and shall include, but may not be limited to standards listed in the following documents:

1. Zoning Ordinance;
2. Subdivision Ordinance;
3. Engineering Design Standards and Construction Details;
4. Sign Ordinance; and
5. Other requirements as the Town Council may deem appropriate.

#### **B. Reference Base Zoning District**

When referencing a base zoning district, the PD ordinance will not have to provide any of the references listed in 6.12.1.A.

#### **C. Deviations from Base Zoning**

1. All applications to the Town for PD zoning shall list all requested standards differing from the normal requirements set forth throughout this Ordinance and related Town development requirements.
2. All applications without this list will be considered incomplete.
3. The list shall be provided in the form of a comparison table that lists all current standards and the corresponding proposed standards for the PD District.
4. The applicant shall provide written justification for the PD request and associated standards, including a statement of impact on public health, safety, and welfare.

#### **D. PD Application Materials Submitted**

An applicant for a PD District shall submit all materials required by this Zoning Ordinance.

1. The Director shall send written notice, within ten (10) calendar days after the date the application is filed, to any applicant that has submitted incomplete materials stating the remaining documents or other information needed to make the application complete.
2. The application for a PD District shall expire on the forty-fifth (45th) calendar day after the date the application was filed if the applicant fails to submit the remaining documents or other information needed to make the application complete on or before such forty-fifth (45th) calendar day.

#### **E. PD District Map (Zoning Exhibit "A")**

The PD District Map shall display all lands within PD in the Town.

1. The Director shall establish all dimensional requirements for PD District Maps.

#### **F. Development Schedule**

A development schedule may be requested by Director or the Town Council at any time during the PD request process.

G. Conformity

The PD District standards shall conform to all other sections of this Ordinance unless specifically excluded or modified in the granting ordinance.

H. Minimum Net Acreage

The minimum net acreage for a PD request shall be fifteen (15) acres unless a specific finding is made by the Town Council that the establishment of the district is required to implement the Comprehensive Plan, a strategic focus area, a special project, or any other purpose.

**6.12.2. Appropriate Plans and Standards for a PD (Zoning Exhibit "B" and "C")**

In establishing a PD District in accordance with this section, the Town Council shall approve and file as part of the amending ordinance appropriate plans and standards for each PD District, with shall be attached as Zoning Exhibit "B" to the PD ordinance.

A. Proposed Standards

Zoning Exhibit "B" shall outline the list of proposed standards for the PD.

B. Different Standards for Different Tracts

If different standards will be applied to different tracts within the PD, then separate regulations for each tract shall be specified.

C. Additional Requirements (Zoning Exhibit "C")

1. If the proposed PD is amending uses only, nothing additional is required unless supplemental information is necessary to clarify the request.
2. If the proposed PD amends any other standards, a zoning exhibit of the proposed PD will be required (which shall be attached as Zoning Exhibit "C" to the PD ordinance), unless otherwise determined by the Director.
3. Zoning Exhibit "C" shall facilitate understanding of the request during the review and public hearing process, and will serve as a guide for future development within the PD District.
4. If required, the Zoning Exhibit "C" shall reflect the overall layout of the entire development and the Director shall maintain a list of required details.
5. If the PD is nonresidential and/or mixed use in nature, the Zoning Exhibit "C" shall also include but not be limited to building dimensions and location, structure height, used, parking specifications, floor area ratio and lot coverage, open space specifications, drainage features, landscaping and trees, floodplain/riparian details, and architectural style or elevations for illustrative purposes.
6. The Town may require further written documentation that describes and explains the Exhibit "C" layout.



7. The Exhibit "C" shall in no way vest rights for the property that are outside the regulations of the Zoning Ordinance and other applicable Town ordinances, as they currently exist or shall be amended.

### **6.13. SPECIFIC USE PERMIT (SUP) APPLICATION AND REVIEW**

#### **6.13.1. Specific Uses Permit Regulations and Procedures**

##### A. Compatibility Considerations

The Town Council in considering any request for Specific Use Permit shall only approve such request after it has determined that the use or uses allowed will not be detrimental to adjacent properties or to the Town as a whole.

The Director or the Town Council may require from the applicant any plans, information, operational data, and expert evaluation concerning the location, function, and characteristics of the proposed use or buildings.

The Town council when establishing a Specific Use Permit shall establish conditions and regulations, in addition to those of the base zoning district, necessary to protect the health, safety, morals, and general welfare of the neighborhood and/or the Town. In addition, the use shall be in general conformance with the Comprehensive Plan and general objectives of the Town. These conditions may include but are not limited to:

1. Paving of streets and sidewalks
2. Means of ingress and egress to public streets,
3. Provisions for drainage,
4. Adequate off-street parking,
5. Protective screening and landscaping,,
6. Area or security lighting,
7. The locations and heights of structures,
8. Architectural compatibility of buildings,
9. Intensity of the use, and
10. Adequate traffic circulation required to contain all stacking activity on the site.

##### B. Imposed Conditions for Approval

1. In granting a Specific Use Permit, the Town Council may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued for use of the building on such property pursuant to such Specific Use Permit and such conditions precedent to the granting of the certificate of occupancy.
2. Any special conditions shall be set forth in writing in the ordinance granting the SUP.

##### C. Compliance Mandatory with Written Requirements

No Specific Use Permit shall be granted unless the applicant, owner and grantee of the Specific Use Permit shall be willing to accept and agree to be bound by and comply with the written requirements of the Specific Use Permit, as attached to the Preliminary Site Plan drawing(s) and approved by the Town Council.

##### D. Timing

1. If required, a building permit shall be applied for and secured with six (6) months from the time of granting the Specific Use Permit, provide however, that the Town Council may authorize an extension and the Town Council may review the Site Plan for continued validity.
2. If the Site Plan is determined invalid, the property owner(s) must submit a new or revised Site Plan for approval prior to any construction or application for building permit for the area designated for the Specific Use Permit.

**E. Enlargement, Modifications, or Structure Alternation**

1. A building, premise, or land used under a Specific Use Permit may be enlarged, modified, structurally altered, or otherwise changed provided the changes do not:
  - a. Increase the height of structures, including antenna support structures;
  - b. Increase building square footage from its size at the time the original Specific Use Permit was granted by greater than ten (10) percent;
  - c. Reduce the distance between a building or noise-generating activity on the property and an adjacent, off-site residential use. This provision shall not apply should the property and the residential use be separated by a major thoroughfare depicted on the Town Thoroughfare Plan; or
  - d. Reduce the amount of open space as indicated on the previously approved zoning exhibit.
2. All other enlargements, modifications, structural alterations, or changes shall require the approval of a new Specific Use Permit.

**F. Zoning Map**

1. When the Town Council authorizes granting of a Specific Use Permit, the Zoning Map shall be amended according to its legend to indicate that the affected area has conditional and limited uses, and said amendment is to indicate the appropriate zoning district for the approved use and prefixed by an "S" designation.
2. Specific Use Permits granted shall be indicated by numerical designation on the Zoning District Map.
3. Section 8.3 Specific Use Permits of this Ordinance shall list by the numerical designate each SUP and the conditions approved.
4. Specific Use Permits are issued to the property.

**G. Amend, Change, or Rescind a Specific Use Permit**

Upon holding a properly notified public hearing, the Town Council may amend, change, or rescind a Specific Use Permit if:

1. There is a violation of any of the provisions of this ordinance or any ordinance of the Town that occurs on the property for which the Specific Use Permit is granted;
2. The building, premise, or land use under a Specific Use Permit is enlarged, modified, structurally altered, or otherwise significantly changed without approval of a separate Specific Use Permit for such enlargement, modification, structural alteration, or change;
3. Violation of any provision of the terms or conditions of a Specific Use Permit;

4. Ad valorem taxes of the property are delinquent by more than six (6) months;
5. The Specific Use Permit was obtained by fraud or with deception; or
6. The advertisement of a zoning change or Specific Use Permit shall be initiated by staff upon receipt of applicants' written response to staff's recommendation. The response shall indicate whether the applicant agrees or disagrees with the staff recommendation. Where the applicant disagrees with any portion of the recommendation, the applicant shall cite the reasons for the disagreement.

#### **6.14. APPEALS AND THE APPEAL PROCESS**

##### **6.14.1. Appeal of a Temporary Building Decision**

- A. The applicant may challenge a decision by the Building Inspector by appealing, in writing, to the Town Council within fourteen (14) calendar days of a decision of the Building Inspector.

1. The Town Council's decision is final.

##### **6.14.2. Appeal of an Administrative Decision**

- A. The Town Council may hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance or Section 211.007, Texas Local Government Code as it exists or may be amended.

- B. In exercising the Town Council's authority herein, the Town Council may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Council has the same authority as the administrative official.

##### **6.14.3. Appeal of a Preliminary Site Plan**

- A. The applicant may appeal the decision of the Building Inspector regarding a Preliminary Site Plan by submitting a written notice of appeal to the Town.

1. The applicant must submit in writing a notice of appeal no later than fourteen (14) calendar days from the date of such decision.
  2. The Town Council shall consider the appeal at a public meeting no later than forty-five (45) calendar days after the date on which the notice of appeal is submitted to the Town.
  3. The Town Council may affirm, modify, or reverse the decision.
  4. The Town Council's decision is final.

##### **6.14.4. Appeal of a Site Plan**

- A. The applicant may appeal the decision of the Building Inspector regarding a Site Plan by submitting a written notice of appeal to the Town.

1. The applicant must submit in writing a notice of appeal no later than fourteen (14) calendar days from the date of such decision.
  2. The Town Council shall consider the appeal at a public meeting no later than forty-five (45) calendar days after the date on which the notice of appeal is submitted to the Town.

3. The Town Council may affirm, modify, or reverse the decision.
4. The Town Council's decision is final.

**6.14.5. Appeal of a Revised Preliminary Site Plan or Revised Site Plan**

- A. An applicant may appeal the denial of a revised Preliminary Site Plan or Site Plan to the Town Council in accordance with 6.14.3 Appeal of a Preliminary Site Plan or 6.14.4 Appeal of a Site Plan.

**6.14.6. Appeal of a Minor PD Amendment Decision**

- A. An applicant may appeal the denial of a minor amendment to the Town Council in accordance 6.14.4 Appeal of a Site Plan.

**6.14.7. Judicial Review**

The Town Council's decision is final unless appealed to district court within ten (10) days after the Council's decision is filed in the Office of the Town Secretary. Such appeal must be made in accordance with Chapter 211 of the Texas Local Government Code. The Council's decision is filed in the Office of the Town Secretary when the Council votes and makes its decision in open session.

## SECTION 7: DEFINITIONS

### 7.1. GENERAL

Terms which are used in this Ordinance and are not specifically defined shall be given their ordinary meaning, unless the context requires or suggests otherwise. In the case of ambiguity or uncertainty concerning the meaning of a particular term, whether or not defined, the Town staff shall have the authority to assign an interpretation which is consistent with the intent and purpose of this Ordinance, or an interpretation which is consistent with previous usage or interpretation.

### 7.2. WORDS AND TERMS DEFINED

Accessory Structure: structures which are incidental to, and located on the same lot as, a principle building(s) including but not limited to, trash enclosures, sign structures, fences, walls, wind-powered systems and similar structures.

Alley: a right of way which provides secondary access to multiple properties, generally in the rear of the property and used for the purpose of service access and not intended for general travel.

Block: property designated on an officially recorded map existing within well-defined and fixed boundaries within a subdivision and usually being an area surrounded by streets or other features such as parks, railroad rights-of-way or municipal boundary lines which make it a unit.

Boarding House: a house providing food and lodging for paying guests.

Building: a structure for the support or shelter of any use or occupancy.

Building Area: the total square feet of floor area in a building measured to the outside faces of exterior walls or to the omitted wall lines, whichever produces the larger area.

Building Line: means a line established, in general, parallel to a property line, over which no part of a building shall project, except as otherwise provided in this Ordinance.

Building Inspector: the officer or other designated authority charged with the administration and enforcement of this Code.

Carport: a covered structure used to offer limited protection to vehicles, primarily cars, from the elements. The structure can either be free standing or attached to a wall.

Certificate of Occupancy: a certificate issued by the Town after final inspection and upon a finding that the building, structure and/or development comply with all provisions of the applicable Town codes, permits, and requirements and approved plans.

Council: the Town Council for the Town of Lakewood Village.

Corner Lot: any lot that has two or more streets along two or more of its adjacent lot lines.

Director: the Mayor or his/her designee.

District: a zone or zoning district within which the use of land and structure and the location, height, and bulk of structures are governed by this title.

Dwelling Area: the area devoted to the living area in a residence or dwelling and is exclusive of porches, enclosed or open breezeways or other non-living space.

Family: an individual or two or more persons related by blood, marriage or adoption; or a group of not more than five persons, excluding servants, who need not be related by blood or marriage, living in a dwelling unit.

Floor Area: the same as Building Area.

Front Yard: that portion of a lot abutting the street and the front building line.

Garage: part of a home, or an associated building, designed or used for storing a vehicle or vehicles.

Garage Apartment: a dwelling unit erected in conjunction with a garage when the main structure is an owner occupied detached dwelling unit.

Gardening Materials: raised beds, stakes and tripods, open lattice or trellis for growing fruits and vegetables.

Glare: direct light emitted from a light source, which is sufficient to cause annoyance, discomfort, or temporary loss of visual performance and visibility.

Greenhouse: a building with a roof and sides made of glass or other transparent material, used for growing plants that need warmth and protection.

Guest House: an accessory building used to house guests of the owner(s) of the main residential structure, and which is never rented or offered for rent.

Hazardous or High Risk Use: any use which in the determination of the Building Inspector or Director, presents a health or safety hazard due to excessive smoke, dust or odors, toxic fumes, noise, vibration, or danger of fire, explosion or radiation and involving materials meeting the "Degree of Hazard – 4" criteria of the Uniform Fire Code.

Height: the vertical distance measured from grade to the highest point of the structure.

Irrigation System: An automatic watering system designed for watering landscaping and landscaped areas for a specified amount of time at a specified time of day. Irrigation systems are typically used to conserve water and time. All irrigation systems shall be equipped with an approved backflow prevention device to protect the water supply (if connected to the Town of Lakewood Village water supply).

Lot: a designated parcel, tract, or area of land established by a plat and to be used, developed or built upon as a unit.

Lot Area: the total square feet of area within the lot lines of a lot, excluding any street right-of-ways. (43,560 ft<sup>2</sup> = 1 acre)

Lot Depth: the length of a line connecting the mid-point of the front and rear lot lines.

Lot Line: a property line that divides one lot from another lot or from a public or private street or any other public space.

Lot of Record: a lot that exists as shown or described on a plat or deed in the records of the local registry of deeds.

Lot Width: the length of a line, drawn perpendicular to the lot depth line at its point of intersection with the front yard line, connecting the side property lines.

Main Building: a building devoted to the principle use of the lot on which it is situated. In any residential district, a dwelling shall be deemed to be the main building on the lot which it is situated.

Masonry Construction:

A. Primary Materials

Unless otherwise provided for in this Ordinance, exterior construction materials are fired brick, natural and manufactured stone, granite, marble, architectural concrete block, and 3-step stucco process for all structures.

B. Other Materials

Other exterior construction materials for nonresidential structures are tilt wall concrete panels and sealed and painted concrete block.

Mobile Home: a transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, which became effective in 1975.

Modular Homes: a HUD-Code Manufactured home as defined in the Texas Manufactured Housing Standards Act, as amended.

Nonconforming Use: a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.

Nonconforming Structure: a structure that does not conform to the design regulations of this ordinance and the zoning district in which it is located, but was lawfully erected under the regulations in force at the beginning of operation and has been a continued use since that time.

Occupancy: the purpose for which a building or land is used.

Open Space: any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public use or enjoyment or for the private use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Planned Development (PD): any development planned from its inception and is typically constructed in a previously undeveloped area.

Platted Lot Line: a lot line that has been recorded with the official recording agency.

Public Street: any street in the Town of Lakewood Village that is not private.

Rear Yard: that portion of a lot between the rear lot line and the rear building line.

Scenic Loft: an elevated area for viewing located on a lot greater than two (2) acres and a part of a dwelling greater than five thousand (5,000) square feet of conditioned space and shall not be used as a bedroom and shall not have a bathroom.

Side Yard: that portion of a lot line between the side lot lines and the side building lines.

Single Family: a land use term referring to an individual, freestanding, unattached dwelling unit.

Special Use Permit (SUP): allows a specific exception to the zoning regulations from a list of acceptable exceptions for a particular parcel of land in a district of a particular zoning character.

Story: that portion of a building between any two successive floors or between the top floor and the ceiling above it.

Street Line: the right-of-way of a street.

Structure: that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Tree: a plant having a permanently woody main stem or trunk, ordinarily growing to a considerable height, and usually developing branches at some distance from the ground.

Variance: an adjustment in the application of the specific regulations of this title to a particular piece of property, which property, because of special circumstances uniquely applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone, and which adjustment remedies disparity in privileges.

Yard: that portion of a lot which is required to be unoccupied and unobstructed from the ground to the sky, except as otherwise provided in this Ordinance.

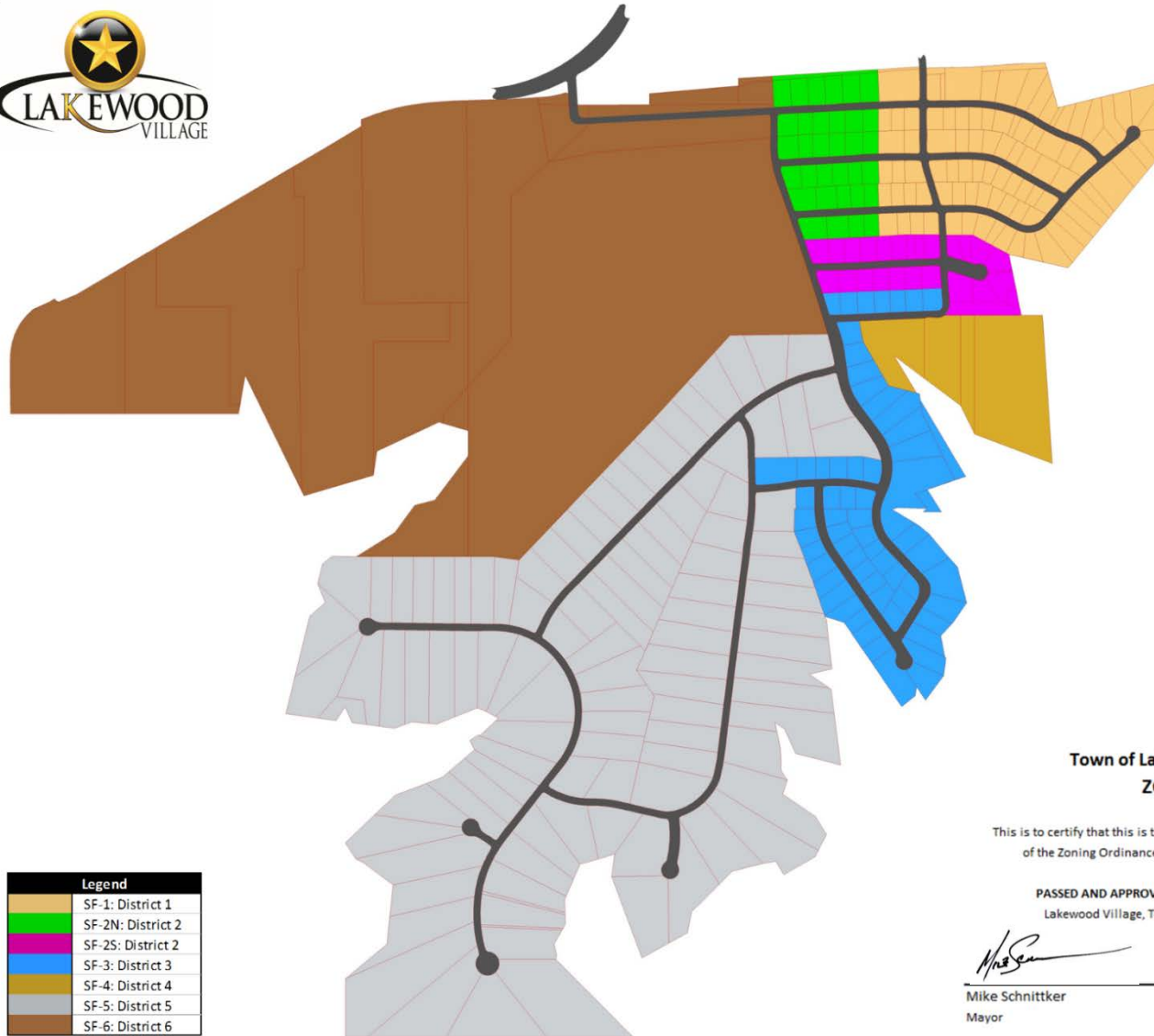
Wind-Powered Systems: windmills and/or wind turbines used to convert energy of the wind into electricity using rotating blades and are incidental to, and located on the same lot as the principle building(s).

Zoning District Map: the official map upon which the zoning districts of the city are delineated.



## SECTION 8: APPENDIX

### 8.1. DISTRICT MAP



#### Town of Lakewood Village, Texas ZONING MAP

This is to certify that this is the official Zoning Map referenced in Section 1 of the Zoning Ordinance of the Town of Lakewood Village, Texas.

PASSED AND APPROVED by the Town Council of the Town of Lakewood Village, Texas this the xx day of June 12, 2014.

  
Mike Schnittker  
Mayor

  
Linda Asbell  
Town Secretary

## 8.2. PLANNED DEVELOPMENTS

The Director shall maintain and update a list of all Planned Developments that shall be adopted in reference to this ordinance.

PD- #		
Application Date: xxx		
Location: xxx		
Acreage: xxx		
Districts: xxx		
Exhibits: xxx		

## 8.3. SPECIFIC USE PERMITS

The Director shall maintain and update a list of all Specific User Permits that shall be adopted in reference to this ordinance.

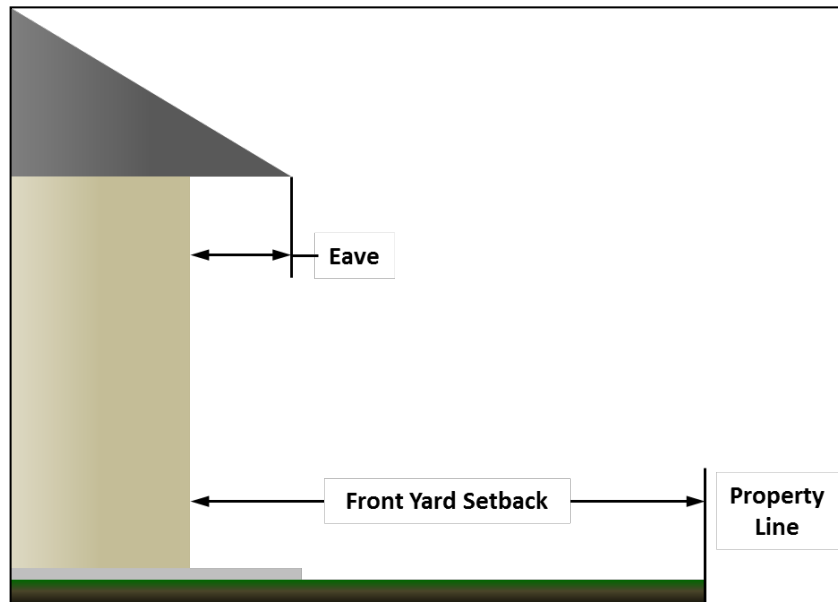
SUP- #		
Adoption Date: xxx		
Location: xxx		
Base Zoning: xxx		

## 8.4. ILLUSTRATIONS

The following illustrations are intended to be used as reference in this Zoning Ordinance.

### 8.4.1. Front Yard Measurement

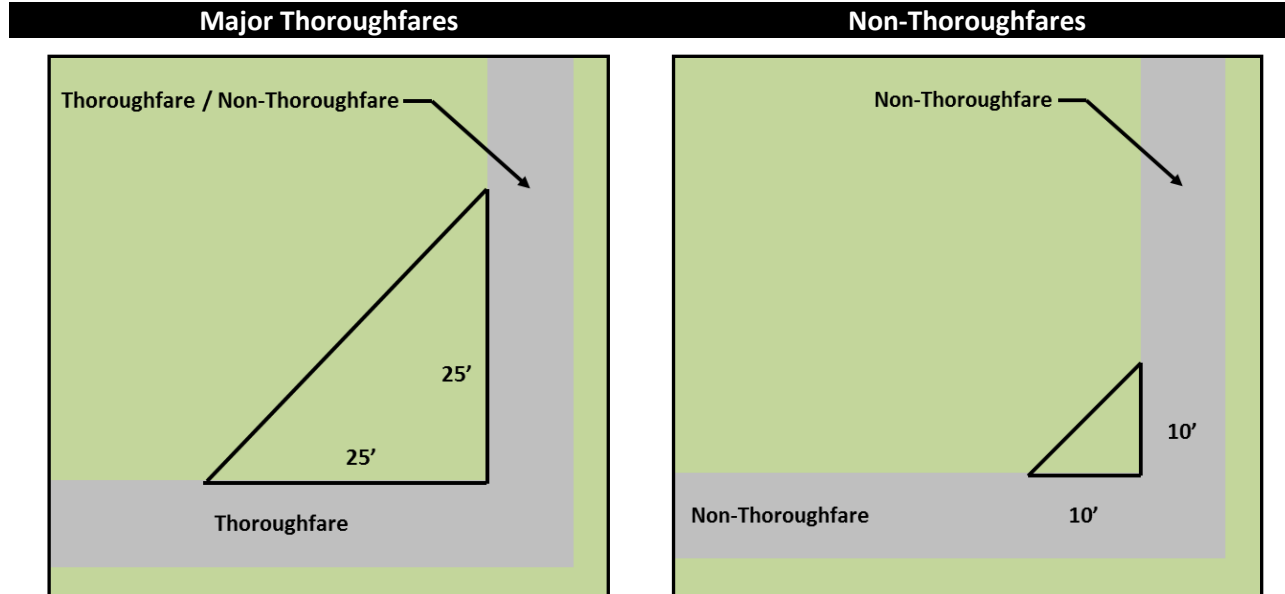
Refer to Table 2.4: Residential Districts Development Standards Table for setback requirements.



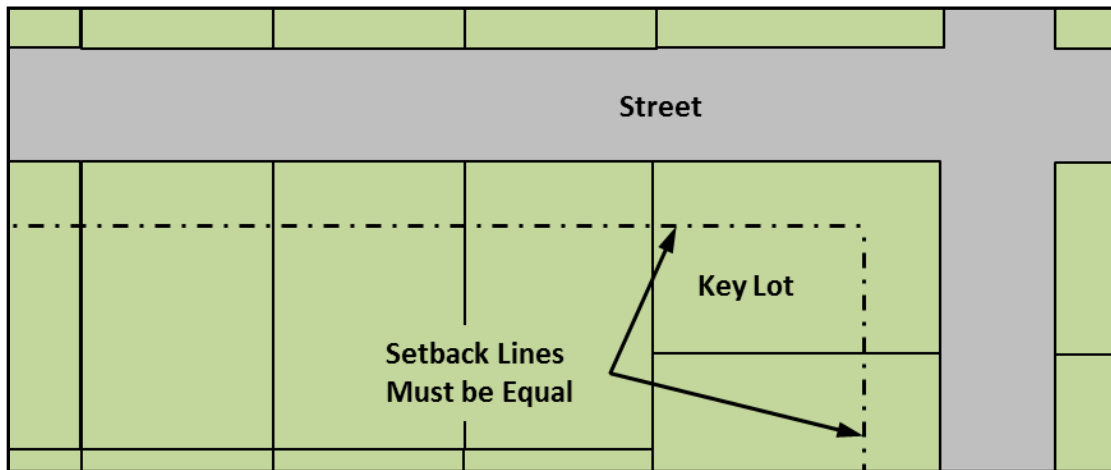
### 8.4.2. Staggered Front Yard Setbacks



### 8.4.3. Corner Visual Clearance



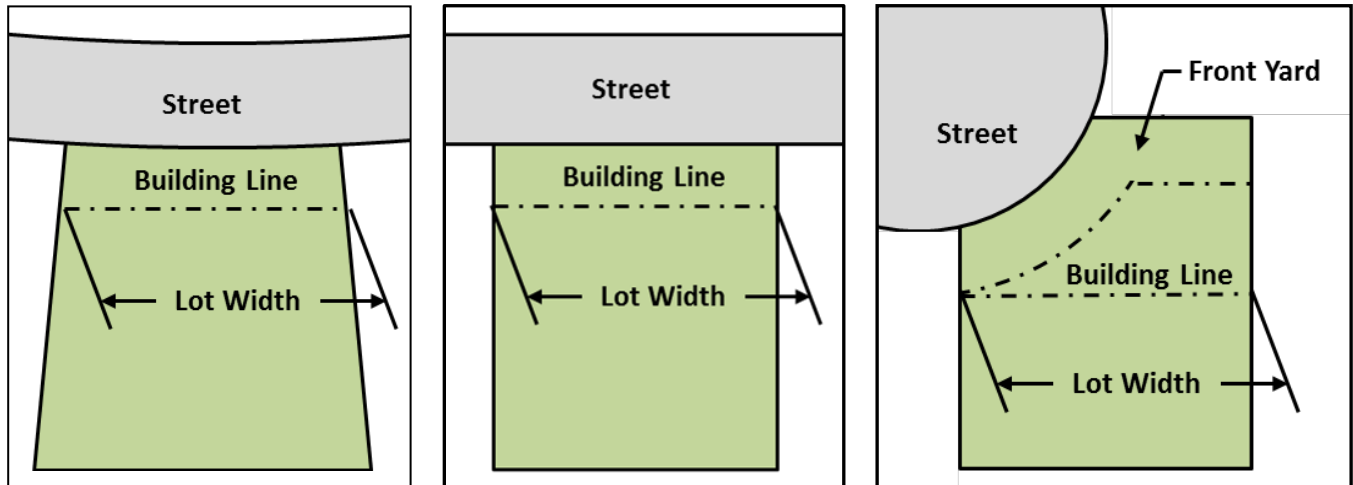
### 8.4.4. Key Lot Setbacks



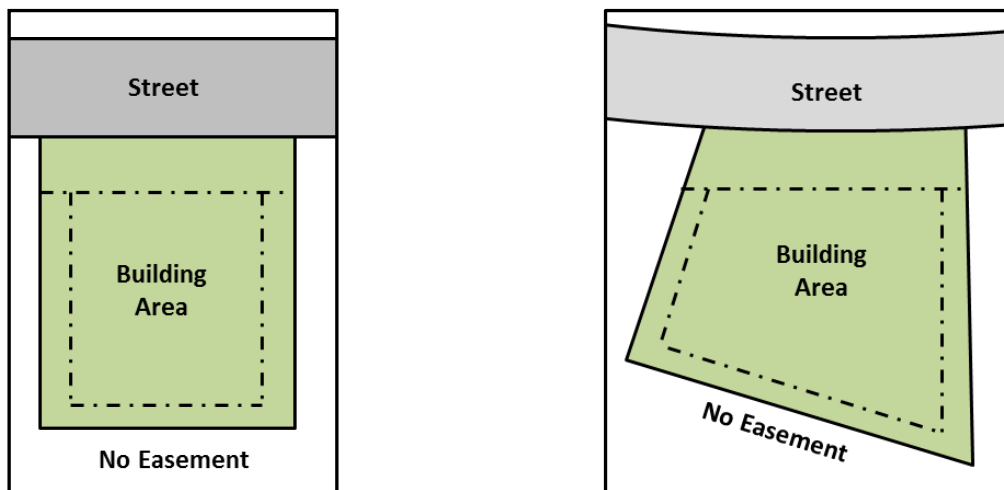
#### 8.4.5. Corner Lot Setbacks



#### 8.4.6. Measurements – Lot Width

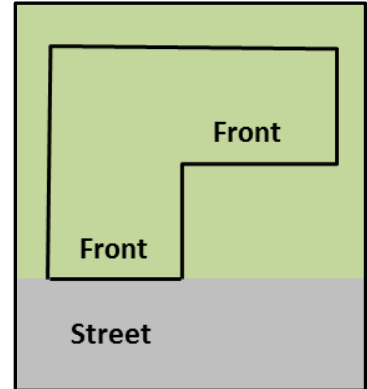
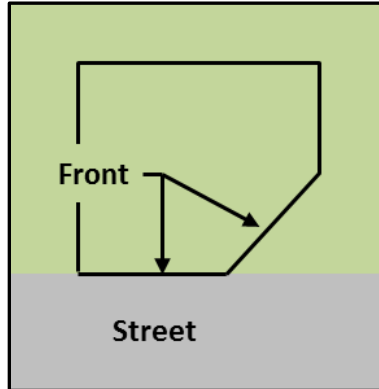
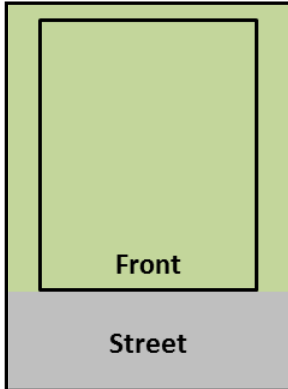


#### 8.4.7. Measurements – Side and Rear Setbacks

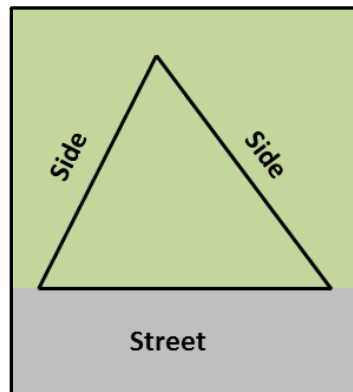
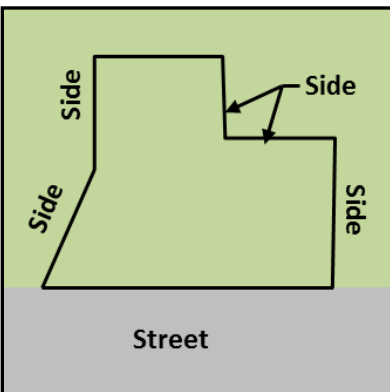


#### 8.4.8. Measurements – Yards

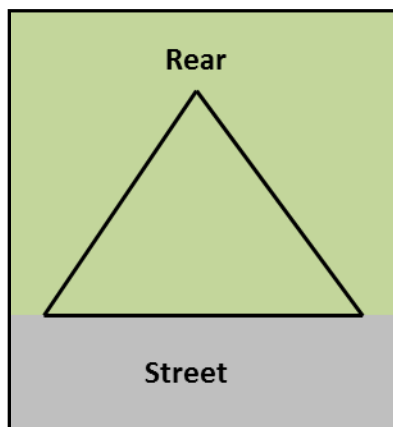
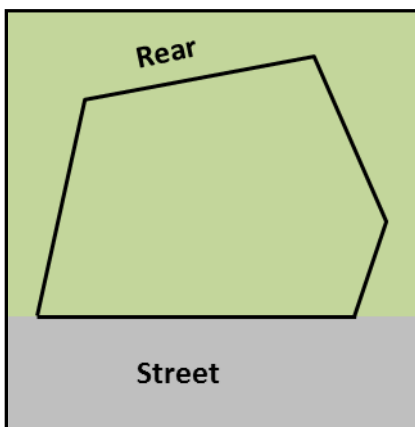
##### Front Lot Lines



##### Side Lot Lines



##### Rear Lot Lines



## End of Exhibit A

### Adoption and Summary of Amendments

Ordinance Number	Date	Summary
19-02	February 14, 2019	<ul style="list-style-type: none"> <li>• 2.4.4 Added max coverage for corner lots</li> <li>• 2.4.8.E Added section</li> <li>• 4.3.4.B Portable buildings and gardening materials in side yard. Driveway extend into side yard</li> <li>• 4.3.4.C Garage Door setback from 28' to 25'</li> <li>• 4.3.8.B Roof pitch from 4/12 to 6/12</li> </ul>
14-04	June 12, 2014	<ul style="list-style-type: none"> <li>• Updated layout and reorganized</li> <li>• Discontinued use of term "section" to define zoning districts. Replaced with type and term district; single family district, multi-family district, etc.</li> <li>• Updated defined terms</li> <li>• Defined requirements for planned developments and special use districts.</li> <li>• Defined zoning requirements for each district; lot size, building size, etc.</li> <li>• Clarified requirements for accessory buildings; size, placement, etc.</li> <li>• Updated zoning review procedures and review bodies.</li> <li>• Added expiration and defined application process and requirements for completeness of applications.</li> <li>• Added landscape, screening and lighting requirements.</li> </ul>
13-09	July 1, 2013	REPEALED