

APPENDIX A
ZONING ORDINANCE
CITY OF EDEN, TEXAS

*EDITOR'S NOTE: Due to the nature of the Zoning Ordinance and the technicalities involved in adopting and amending it, such ordinance is printed herein as reflected in Eden Zoning Ordinance, 1980 amended publication with subsequent amendments inserted in their proper place. In order to avoid possible conflict and confusion in making reference to sections of the Zoning Ordinance, it has not been converted to Code format, but retained in ordinance form for inclusion in this Code of Ordinances.

Amendment b Section 7.6 11/97

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ZONING ORDINANCE

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CITY OF EDEN ZONING ORDINANCE

AN ORDINANCE AMENDING ORDINANCE NO. 1991-1 ESTABLISHING ZONING REGULATIONS AND DISTRICTS IN ACCORDANCE WITH A COMPREHENSIVE PLAN; AND REGULATING AND DISTRICTING THE HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED, THE SIZE OF YARDS, COURTS OTHER PURPOSES; AND DIVIDING THE CITY OF EDEN INTO DISTRICTS OR ZONES; AND REGULATING AND DISTRICTING THE ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, REPAIR AND USE OF BUILDING, STRUCTURES OR LAND WITHIN SUCH DISTRICTS OR ZONES; AND PROVIDING UNIFORM REGULATIONS FOR THE SEVERAL CLASSES AND KINDS OF AND ADOPTING A ZONING MAP DISCLOSING THE SEVERAL USE DISTRICTS, AND THE RESTRICTIONS AND LIMITATIONS AND PROVISIONS APPLICABLE TO SUCH DISTRICTS; AND PROVIDING FOR A BOARD OF ADJUSTMENT AND DEFINING THE POWERS OF SAME; AND PROVIDING CERTAIN PENALTIES AND REMEDIES AND BY ADDING A SECTION PERTAINING TO “B” MULTI-FAMILY RESIDENTIAL DISTRICT.

Wherefore, it has come to the attention of the City Council of the City of Eden, Texas, that it is desirable and in the best interest of the City to establish and provide for Multi-Family Residential Districts in addition to those districts previously established.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EDEN, TEXAS, that Ordinance No. 1991-1, city of Eden Zoning Ordinance is hereby amended by reproducing in its entirety with the addition of provisions for Multi-Family residential districts, and this ordinance replaces and stands instead of Ordinance No. 1991-1, as follows:

SECTION 1: TITLE

This ordinance shall be known and may be cited as the “City of Eden Zoning Ordinance”.

SECTION 2: PURPOSE

This ordinance is enacted for the purpose of promoting health, safety, morals and the general welfare of the community and for the protection and preservation of the places and areas of historical and cultural importance and significance, in accordance with a comprehensive plan designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements.

SECTION 3: DEFINITIONS

Section 3.1 Generally For the purpose of this ordinance, certain terms and words are hereby defined; terms not defined herein shall be construed in accordance with adopted building codes of their customary usage.

Section 3.2 Specifically where necessary for reasonable construction of this ordinance, words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular. The word “building” shall include the word “structure”; the word “shall” is mandatory and not directive; the word “lot” includes “plot”.

Accessory Buildings and Uses: A subordinate building or portion of the main building, the use of which is incidental to that of the dominant use of the main building or land, including bona fide servants’ quarters. An accessory use is one which is incidental to the main use of the premises.

Accessory Structure: A detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land and which is located on the same lot as that of the principal structure or use.

Apartment House and Apartments: A building, or portion thereof, which is designed or occupied as the home or residence of more than two (2) families living independently of each other and doing their own cooking in the said building, and shall include flats and other multifamily dwellings.

Billboard: A sign advertising products not made, sold, used or served on the premises upon which the sign is located.

Board: The board of adjustment of the City of Eden, Texas.

Boarding House: A building other than a hotel, where lodging or meals for five (5) or more persons are served for compensation.

Building: Any structure built for the support, shelter, or enclosure of person, animals, chattels or movable property of any kind.

Building Area: The total area enclosed by a line formed by the outside surface of all walls at the foundation line.

Building Height: The vertical distance from the average grade of the finished ground level at the center of all walls of the building to the highest finished roof surface in the case of flat roofs or to a point at the average height of roofs having a pitch of more than one (1) foot in four and one-half (4 ½) feet.

Building Lot: A tract of land which, at the time of filing for a building permit, is intended by its owner or developer to be used, developed or built upon as a unit, under single ownership or control. It shall front upon a dedicated street.

Building Line: A line behind which all buildings must be built, such line generally parallel to the front lot line.

City: The City of Eden, Texas, a general law city.

City Council: The City council of the City of Eden, Texas.

Commercial Recreation: Buildings designed for, or occupied by, bowling alleys, health clubs, swimming pools, indoor golf, skating, billiards, indoor and outdoor theaters and other similar recreational activities operated as commercial enterprise.

Commission: The planning and zoning commission of the City of Eden, Texas.

Common side Lot Line: A side lot line between two (2) or more lots.

County: Concho County, Texas.

Day Nursery: An agency, organization or individual providing daytime care of six (6) or more children not related by blood or marriage to or not the legal wards or foster children of the attendant adult.

Dwelling: A dwelling is a building or portion thereof, designed and used exclusively for residential occupancy, including single-family, two family and multifamily dwellings, but not including hotels, motels, lodging houses, mobile homes, manufactured housing, manufactured homes, travel trailers, campers or camp trailers, nor any vehicle or portable structure having no permanent foundation other than wheels, jacks or skirting.

Dwelling, Single-Family: A building containing only one (1) dwelling unit or occupied by one (1) family.

Dwelling, Two-Family: A building containing only two (2) dwelling units or occupied by two (2) families.

Dwelling, Multifamily: A building or portion thereof constructed for the occupancy of three (3) or more families living independently of one another, and doing their own cooking in the building.

District: A zoning district which is a part of the City of Eden, Texas, wherein the regulations of this ordinance are uniform.

Eating and Drinking Places: A retail establishment primarily engaged in the sale of prepared food and drinks for consumption on the premises.

Enclosed Building: Building surrounded by walls and a roof.

Enclosed Storage: Area surrounded by a solid fence or wall to height of eight (8) or more feet which effectively screens the contents from view and protects from the spread of fire and vandalism.

Fire Wall: A masonry wall, eight (8) inches or more in width, which is continuous from foundation to roof and is without openings other than fire proof doors.

HUD-Code Manufactured Home: A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

Hotel: A building in which lodging or boarding and lodging are provided for more than twenty (20) persons and offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours.

Industrial Housing: A residential structure that is designed for the use and occupancy of one or more families, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent residential site, and that is designed to be used as a permanent residential structure when the modules or modular components are transported to the permanent residential site and are erected or installed on a permanent foundation system as specified in this ordinance. The term includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include any residential structure that is in excess of three stories or 49 feet in height as measured from the finished grade elevation at the building entrance to the peak of the roof. The term shall not mean nor apply to (i) housing constructed of sectional or panelized systems not utilizing modular components; or (ii) any ready-built home which is constructed so that the entire living area is purposed of selling it moving it to another location.

Loading space: An off-street space for the parking of a vehicle while loading or unloading merchandise or materials.

Lodging house: A building other than a hotel, where lodging without meals for five (5) or more persons is provided for compensation.

Lot: A lot is a tract or parcel of land which is occupied by one (1) building or use and the accessory buildings or uses customarily incident to it, and having a frontage on a dedicated street.

Lot, Corner: A lot situated at the intersection of two (2) streets.

Lot, Interior: A lot other than a corner lot.

Lot Through: A lot other than a corner lot, with frontage on two (2) streets. On a through lot both street lines shall be deemed front lot lines.

Lot Line, front: That boundary of a building lot which is also the line of an existing or dedicated street. Upon corner lots, either street line may be selected as the front lot line provided a front and rear yard are established adjacent and opposite, respectively, to the front lot line.

Lot of Record: An area of land designated as a lot on a subdivision plat duly recorded with the county clerk; or an area of land held in ownership described by metes and bounds upon a deed recorded or registered with the county clerk.

Maintenance Easement: An easement granted by the owner of one (1) lot to the owner of an adjoining lot, exclusively for the purpose of allowing the occupant of a dwelling unit constructed on or within less than five (5) feet of the common side lot line access to the adjoining property in order to maintain that portion of the dwelling situated on or near the common side lot line.

Manufactured Housing or Manufactured Home: A HUD-code manufactured home or a mobile home and collectively means and refers to both.

Mobile Home: A mobile home is a structure that was constructed before June 15, 1976, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

Modular Homes: This term shall have the same definition as “Industrial Housing” which is defined herein.

Motel: A building or group of buildings which (a) contains living or sleeping accommodations used primarily for transient occupancy, and (b) has individual entrances from outside the building to serve each such living or sleeping unit.

Nonconforming Building: Any building or part thereof, lawfully existing or occupied at the effective date of this ordinance which does not comply, after the passage of this ordinance, with the regulations of the district in which it is located.

Nonconforming Lot: Any use lawfully existing at the effective date of this ordinance that does not conform after the passage of this ordinance, to the regulations of the zoning district in which it is located.

Nonconforming Use: Any use lawfully existing or occupied at the effective date of this ordinance which does not conform, after the passage of this ordinance, with the regulations of the district in which it is located.

Parking Space, Private: A paved area of at least 166.5 square feet (see Section 12.1 (d) enclosed or unenclosed, sufficient in size to store one (1) automobile, having a paved driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile. A parking space shall not occupy any public land.

Paved Areas: An area surfaced with asphalt, concrete or similar all weather surfaces, not including gravel.

Person: Means a natural person, his heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns or the agent of any of the aforesaid.

Planning and Zoning Commission: The planning and zoning commission of the City of Eden, Texas.

Privacy Fence: A fence constructed of wood slats, chain link with slats, masonry or similar material six (6) feet in height and so constructed and maintained as to virtually prevent vision through it.

Public Uses: Any use controlled by the city, county, state, federal or any other governmental entity or agency.

Signs: Any device or surface on which letters, illustrations, designs, figures or symbols are painted, printed, stamped, raised, projected or in any manner outlined or attached and used for advertising purposes.

Streets: Any public thoroughfare or space more than twenty (20) feet in width which has been dedicated or otherwise established for use as a public roadway.

Travel Trailer: A structure other than a mobile home mounted or originally constructed on wheels and intended for short term or temporary dwelling or sleeping purposes. This term includes pickup campers, motor homes and other recreational vehicles.

Use Easement: An easement over a subordinate side yard granted by the owner of such subordinate side yard to an adjoining lot, exclusively for the purpose of allowing the occupant of the dwelling unit having a dominant side yard adjacent to the common lot line the use and enjoyment a privacy of such subordinate side yard.

Yard: An open space, on the same building lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided.

Yard, Dominant Side: The widest side yard of a lot.

Yard, Front: The term “front yard” means that part of the lot between lines projected the full width of the lot along the most front portion of the main building on said lot.

Yard, Rear: The term “rear yard” means that part of the lot between a line projected the full width of a lot along the rear wall of the main building on said lot.

Yard, Side: The term “side yard” means that part of the lot, having a building thereon, between the building and a point on the side line of the lot, even with the front of the main building or the lot, to a point even with the rear of the main building.

Yard, Subordinate Side: The narrowest side yard of a lot.

SECTION 4: REPEAL

Existing ordinances and parts of ordinances in conflict herewith are repealed.

SECTION 5: GENERAL COMPLIANCE

Section 5.1 No building shall be erected and no existing buildings shall be moved, structurally altered, added to or enlarged, nor shall any land, building or premises be used, or designated for use for any purpose or in any manner other than provided for hereinafter in the district in which the building, land or premises is located; provided, however, that necessary structural repairs may be made where health and safety are endangered.

Section 5.2 No sign or billboard shall be erected, moved, altered, added to, enlarged, painted or modified unless it shall conform to the provisions herein. No revolving type beacon shall be permitted.

Section 5.3 No building shall be erected, nor shall any existing building be structurally altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, unless the same shall conform to the regulations hereinafter designated for the district in which such building or open space is located.

Section 5.4 No yard or other open space provided around any building for the purpose of complying with provisions of this ordinance shall be considered as providing a yard or open space for a building on any other lot.

SECTION 6: ESTABLISHMENT OF ZONING DISTRICTS AND BOUNDARIES

Section 6.1 Districts Established For the purpose of this ordinance, the city is hereby divided into districts as follows:

- “A” Single Family Residential District
- “B” Multi-Family Residential district
- “C” Commercial
- “D” Industrial district
- “E” Manufactured Housing District
- “F” Mobile Home Park District

Section 6.2 Zoning Map The location and boundaries of the districts herein established are shown upon Exhibit A attached hereto and upon the official zoning map, which are hereby incorporated into this ordinance. Said Exhibit A and the zoning map, together with all notations, references and other information shown thereon and all amendments thereto, shall be as much a part of this ordinance as if fully set forth and described herein.

SECTION 7: "A" SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 7.1 Permitted Uses In Single-Family Residential district "A", no building or land shall be used, and no building shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for one (1) or more of the following uses:

- (a) Single-family dwelling.
- (b) Churches and other places of worship.
- (c) Colleges, universities, vocational schools and schools of higher learning.
- (d) Country clubs or golf courses, but not including miniature golf courses, driving ranges or similar forms of commercial amusement.
- (e) Farms, nurseries or truck gardens, limited to the propagation and cultivation of plants, provided no retail or wholesale business is conducted on the premises, and provided further that no poultry or livestock other than normal household pets shall be kept or housed within twenty-five (25) feet of any property line.
- (f) Parks, playgrounds, community buildings and other public recreational facilities, owned and/or operated by the municipality or other governmental agency.
- (g) Public buildings, including libraries, museums, police and fire stations, elementary schools and secondary schools.
- (h) Real estate sales offices during the development of residential subdivisions, but not to exceed two (2) years from the date of final approval and filing of the final subdivision plat in the county plat records.
- (i) Schools, private, with curriculum equivalent to that of a public elementary or secondary.
- (j) Temporary buildings for uses incidental to the construction work on the premises, which buildings shall be removed upon the completion or abandonment of construction work.
- (k) Water supply reservoirs and pumping plants when screened from public streets.
- (l) Public utilities.
- (m) Accessory buildings and uses as follows:
 - (i) Customary home occupations, such as millinery, dressmaker, musician, artist or beautician, provided that such uses are located in the dwelling used by such a person as his or her private residence, and provided further that no person not a member of the family residing on the premises is employed, and no window display or sign is used to advertise the same, unless attached flat wise to the house and not exceeding two (2) square feet in surface area.
 - (ii) A Private detached garage with or without storeroom or utility room and accessory buildings shall be permitted, provided that such detached garage or accessory building shall be located entirely in the rear yard area and not less than five (5) feet from any side or rear lot line and in the case of corner lots, not less than the distance required for

dwellings from side streets. A garage or servants' quarters constructed as an integral part of the main dwelling shall be subject to the regulations affecting the main dwelling.

(n) One single-family HUD-Code manufactured home, Industrialized Housing home or modular home per lot, subject to the provisions of Section 7.6

Section 7.2 Signs

- (a) No commercial billboard or commercial sign shall be permitted.
- (b) Single-family dwellings, churches and other institutions hereinabove provided for and permitted in this district, may display signs showing names, activities and services therein provided. Such signs shall be limited to forty (40) square feet per face. Any such sign located closer than twenty-five (25) feet to any street right-of-way shall have a minimum clearance of nine (9) feet from the finished grade with a maximum height not to exceed thirty-five (35) feet. There shall be no projections over public property, right-of-way or easement.
- (c) During construction of a building, one (1) un-illuminated sign advertising contractors or architects working on such premises shall be permitted, provided that such sign shall not be more than eight (8) square feet in area and shall be set back of the front lot line. Such signs shall be removed immediately upon completion of the building.

Section 7.3 Height Regulations No building shall exceed thirty (30) feet in height.

Section 7.4 Yard Requirements

- (a) Front Yard There shall be a front yard having a depth of not less than twenty-five (25) feet.
- (b) Side Yard Permitted All lots shall have a side yard of not less than ten (10) feet on each side, provided that on a corner lot the side yard on the street side of the lot shall be not less than twenty (20) feet and shall extend from front to rear of the lot.
- (c) Rear Yard All lots shall have a rear yard of not less than fifteen (15) feet.

Section 7.5 Lot Requirements

- (a) No building shall be constructed on any lot containing less than five thousand (5,000) square feet.
- (b) In no case shall more than fifty (50) percent of the total lot area be covered by the combined area of the main building and accessory buildings.

Section 7.6 Specifications for HUD-Code Manufactured Homes No HUD-Code manufactured home, an Industrialized Housing home or a modular home shall be permitted in the "A" Single-family Residential District unless the following conditions are satisfied:

- (a) The owner of the property upon which the home is to be placed delivers to the City Secretary a signed consent (on a form to be furnished by the city) to the

- placement of such home from the owners of all properties lying within two hundred (200') of the property on which the proposed home is to be situated or constructed. In the event ad valorem taxes levied on any of the properties lying within two hundred feet (200') of the property on which the proposed home is to be situated or constructed are delinquent for two years or more, then the consent of the owners of said delinquent properties to the placement or construction of the proposed home shall not be required under this subparagraph (a); and
- (b) The owner of the property upon which the home is to be placed delivers to the City Secretary a map or plat depicting the properties lying within two hundred feet (200') of the property on which the proposed home is to be situated or constructed which identifies the owners of said properties according to the most current records of the Concho County appraisal district. This map or plat shall constitute a rebuttable presumption of the identity of the owners of such properties.
 - (c) The owner of the property upon which the home is to be placed delivers to the City Secretary an application for building permit for each home which affirmatively indicated it will be situated or constructed on the premises in such a manner that its overall appearance conforms favorably with the existing houses within one block in each direction on the street or streets on which the home is located and on the street or streets facing the home; and
 - (d) The conditions of Section 7.5 herein are satisfied; and

In the event a building permit issued under this Section 7.6 is approved by the City's Building Permits Officer or the City Administrator, then the home or a similar, replacement home identically situated may remain on the property as approved regardless of changes in ownership or possession of the property.

Adopted 11/11/1997 Signed by Rosa L. Schreiber

Section 8: "B" MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Section 8.1 Permitted Uses In a Multi-family Residential District "B", no building or land shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for one or more of the following uses:

- (a) Any use permitted in "A" Single-Family Residential District.
- (b) Two-family dwellings.
- (c) Multiple family dwellings.
- (d) Boarding or lodging houses.
- (e) Day nurseries.
- (f) Hospitals, clinics and sanitariums, except a criminal, mental or animal hospital.
- (g) Nursing and convalescent homes.

Section 8.2 Signs The sign regulations for "A" Single-Family Residential District shall apply in this district.

Section 8.3 Height Regulations The height regulations for “A” Single-Family Residential District shall apply to this district.

Section 8.4 Yard Requirements The yard requirements for “A” Single-Family Residential District shall apply to this district.

Section 8.5 Lot Requirements

(a) Size of Lot:

1. Lot Area: No building shall be constructed on any lot less than three thousand (3,000) square feet, or equivalent thereof, per dwelling unit, not to exceed twenty (20) units per gross acre.

2. Lot Width: The width of a lot shall be not less than twenty-four (24) feet at any point for a simple family attached unit and fifty (50) feet as measured along the front building line for a multi-family unit.

3. Lot Dept: The dept of a lot shall be not less than one hundred (100) feet at any point.

(b) Minimum Dwelling Size: The minimum floor area of any single family attached dwelling unit shall be eight hundred (800) square feet, exclusive of garages breezeways and porches. The minimum floor area of a multi-family unit shall be six hundred fifty (650) square feet per unit.

SECTION 9: “C” COMMERCIAL DISTRICT

Section 9.1 Permitted Uses In the Commercial District, “C”, no building or land shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this ordinance, except for one or more of the following uses:

- (a) Any use permitted under “A” Single-Family Residential District.
- (b) Any business or office use which is not specifically permitted under any other section of this ordinance.

Section 9.2 Signs

- (a) Permanent signs shall be permitted, provided that they shall have no flashing lights or revolving beacon lights.
- (b) No billboards shall be permitted.
- (c) No portable or temporary signs shall be permitted, except as follows:
 - 1. Temporary signs advertising for sale the real property upon which the sign is located. The face of such temporary signs shall not exceed forty (40) square feet on each side. No more than one (1) sign per three hundred (300) lineal feet of street frontage may be placed on such property.
 - 2. Temporary signs promoting a political candidate or issue.
 - 3. Portable or temporary signs advertising the opening or relocation of a business; provided, that such signs shall only be permitted for a

- maximum period of thirty (30) days before and sixty (60) days after such opening or relocation.
4. Temporary signs advertising special events; provided, that the permit allowing such signs shall be effective for a maximum period of five (5) days per calendar year and no more than one (1) such permit shall be issued in any calendar year to any business or group.
 5. Banners and other temporary signs attached and parallel to a wall of the structure.
 6. Banners above public streets or highways in such locations as may be approved by the building official and subject to such regulations as he may impose; provided, that such banners shall in no event be displaced in excess of sixty (60) days.
 7. Portable or temporary signs legally permitted prior to the date of this ordinance; provided that such legally permitted signs, unless otherwise permitted by this ordinance, must be removed within one (1) year from the effective date of this ordinance.
 8. No permanent, temporary or portable sign shall obstruct visibility or create a traffic hazard.

Section 9.3 Height Regulations No building shall be less than ten (10) feet nor more than sixty (60) feet in height except as provided hereinafter.

Section 9.4 Lot Requirements

- (a) No building may be constructed on a lot of less than two thousand five hundred (2,500) square feet.
- (b) No building shall occupy or cover any part of a drain field of a septic system.
- (c) A landscaped area of not less than ten (10) feet in depth shall be provided adjacent to and in front of the building. Sidewalks up to four (4) feet in width may be included within the landscaped area.

Section 9.5 Portable and Temporary Buildings Portable and temporary buildings shall be permitted, subject to compliance with all applicable ordinances related thereof; provided that a portable or temporary building of less than seven hundred fifty (750) square feet shall be allowed only when incidental to the construction of permanent structure.

SECTION 10: "D" LIGHT INDUSTRIAL DISTRICT

Section 10.1 Purpose of District The Light Industrial District "D", is intended to accommodate a wide variety of commercial services and light manufacturing operations contained principally within an enclosed structure.

Section 10.2 Permitted Uses Within the "D" Industrial District, no building, structure or land shall be used for any purpose other than the following; providing that such uses are contained principally within an enclosed structure in such a manner that no nuisance factor is created outside of the district.

- (a) Manufacturing, fabrication, assembly or processing of goods or materials, products or equipment.
- (b) Prisons or detention centers.
- (c) Warehousing and distribution operations.
- (d) Research, development and testing activities.
- (e) Repair, servicing, painting, packaging or cleaning of goods, materials, products, or equipment.
- (f) Other uses similar to the stated permitted uses, consistent with the purpose and intent of the district and in compliance with the performance standards for this district.

Section 10.3 Accessory Uses Accessory uses shall be permitted in them main building or in a separate on-premise facility provided that such ancillary use is demonstrably related to the permitted principal use and provided primarily for the convenience, use, and service of occupants of that principal use. Accessory uses shall include the following:

- (a) Office, administrative or sales facilities incidental to or in support of any of the principal permitted uses.
- (b) Facilities provided for the benefit of employees including cafeteria, day care facilities, employee training and meeting areas, and recreation facilities.
- (c) Facilities for the safety, security and operation of the principal permitted use including site security and operation of the principal permitted use including site security offices, fire fighting facilities, first aid stations and caretakers facilities.
- (d) Outdoor storage provided that the requirements for screening are met and that not more than ten (10) percent of the lot area or twenty (20) percent of the building area, whichever is greater, is so used.
- (e) Portable or temporary buildings shall be permitted, subject to all applicable ordinances related thereto; provided that a portable or temporary building of less than even hundred fifty (750) square feet shall be allowed only when incidental to the construction of a permanent structure.
- (f) Other accessory uses customarily incidental to any permitted principal use.

Section 10.4 Performance Standards It is the intent of these regulations to prevent any use or operation, including those permitted by right, from creating a dangerous, injurious, noxious or unreasonably objectionable condition so as to adversely affect areas outside of the district. Specifically, all uses shall operate in conformance with the standards set forthin each subsection below:

- (a) Screening Outside storage and trash receptacles shall be enclosed from view by the general public by a solid fence constructed of either masonry or wood. The fence shall be a minimum of six (6) feet tall. Where a light industrial use abuts a residential district, a fence with a minimum height of eight (8) feet shall be provided along the entire common boundary of the light industrial use and the residential district. No outside storage or trash receptacle shall be higher than the

height of screening. All screening shall be maintained in a safe and slightly condition at all times.

- (b) Noise Where an industrial use abuts a residential district, noise shall not exceed the standards set forth in this subsection. Noise shall be measured at the common boundary of the industrial district and the residential district. Measurement of sound shall be done with an A-weighted filter constructed in accordance with the specifications of the American National Standards Institute. The maximum permitted sound levels measured in decibels for industrial uses abutting residential uses shall be as follows:

- (i) Weekdays from 7 a.m. to 7 p.m. – 55 decibels.
- (ii) Weekdays from 7p.m. to 7 a.m. and throughout the weekend – 40 decibels.

During the hours of 9 a.m. to 6 p.m. an impact noise, defined as a noise in excess of the specified limits which occurs for no more than one (1) minute per hour, shall be permissible. Impact noise shall be measured using the fast response of the sound meter. Noise resulting from temporary construction activity shall be exempted from this section.

- (c) Vibration All machines shall be so mounted as to minimize vibration and no vibration shall be produced which is discernible without the aid of instruments at the boundary of the Industrial District.
- (d) Air Pollution All uses within the Industrial District shall operate in compliance with the most current revision of the regulations of the Texas Air Control board pertaining to the control of air pollution.
- (e) Noxious Odors The emission of any odors which are discernible without the aid of instruments shall be prohibited beyond the boundaries of the Industrial District.
- (f) Toxic and Liquid Wastes The discharge of any toxic or liquid waste material into any outdoor area; drainage way or water course shall be prohibited. The disposal of all toxic and liquid wastes shall be performed in accordance with all applicable Federal and State laws and the city's most recent standards for industrial pretreatment.
- (g) Electromagnetic Interference No use or operation shall be conducted which adversely affects the performance of electromagnetic devices or receivers of electronic signals, including televisions and radios, outside of the boundaries of the property on which the operation occurs.
- (h) Lighting No use, operation, facility, premises or parking area shall be lighted in such a manner as to provide direct glare into an adjoining residential district. All lighting in the Industrial district shall be hooded or shielded so that the light source is not directly visible from residential areas.
- (i) Landscaping Uses within the Industrial District shall be landscaped and maintained in such a manner to effectively lessen the impact of parking areas, to screen storage areas from view by the general public and to provide a buffer

between industrial uses and abutting residential uses. A ten (10) foot buffer strip shall be maintained between all parking areas, roads, or storage areas and abutting residential districts. Trees with a minimum one (1) inch caliper size shall be planted and maintained every twenty (20) feet along the buffer with a residential district. Parking, loading areas and outdoor storage areas which are visible from the public right-of-way shall be buffered by a row of evergreen shrubs planted at the perimeter of such areas. A landscaped street yard shall be maintained along a minimum five (5) feet of the property, excluding access driveways, parallel to and immediately behind the right-of-way line of a dedicated public street. One tree, with a minimum one (1) inch caliper shall be planted and maintained for each twenty (20) feet of frontage along the public right-of-way.

Section 10.5 Height, Area and Setback Requirements

- (a) Height The height of buildings in the Industrial district shall only be limited in areas abutting residential districts. In areas abutting residential districts, the height on buildings and other improvements shall not exceed thirty (30) feet within the first one hundred (100) feet from any perimeter abutting a residential district.
- (b) Area The ground level square footage of all buildings and improvements other than streets and parking areas shall not exceed sixty (60) percent of the total area of each lot.
- (c) Setbacks No building or other structure except roads, walks, or parking areas shall be erected within the following setback lines measured along the perimeter of the lot:
 - (i) Twenty-five (25) feet from any front lot line; and
 - (ii) Ten (10) feet from any side or rear lot line in areas abutting undeveloped or nonresidential areas; or
 - (iii) Twenty (20) feet side setback and forty-five (45) feet rear setback in areas abutting residential districts; provided, that no parking, roads, or storage areas shall be placed within ten (10) feet of the perimeter of the lot in areas abutting residential districts.

Section 10.6 Signs All signs shall conform with the regulations set forth in Section 8.2 of this ordinance relating to the “C” Commercial District.

Section 10.7 Parking and Loading Space Requirements

- (a) Off-street parking spaces shall be provided in accordance with the requirements set forth in Section 12 of this ordinance. Alternative requirements for parking may be approved by the Director of Planning after review of the business’ parking needs; alternative standards including, but not limited to, the “Parking Generation Manual” of the Institute of Transportation Engineers; or the report of the qualified traffic engineer. Such approval of alternative parking requirements

shall be fully documented in the zoning file for the property and shall not be applicable to subsequent users of the same property or similar uses on other properties without seeking the same approval.

- (b) Loading spaces shall be provided in accordance with the requirements set forth in Section 12 of this ordinance. Alternative loading space requirements may be approved by the Director of Planning in the same manner as prescribed in Section 9.7 (a) of this ordinance.

SECTION 11: “E” MANUFACTURED HOUSING RESIDENTIAL DISTRICT

Section 11.1 Permitted Uses In the Manufactured Housing Residential District, “E”, a building or premises may be used for any of the following purposes:

- (a) Any use permitted under “A” Single-Family Residential District.
- (b) One single-family HUD-Code manufactured home, Industrialized Housing home or modular home per lot.
- (c) Mobile Home and Travel Trailer Parks located, constructed, maintained and operated in compliance with applicable City ordinances.
- (d) One single-family mobile home per lot, subject to the provisions of Section 10.5 and 10.6 herein.
- (e) Churches.
- (f) Day nurseries.
- (g) Municipal buildings
- (h) Public utilities.

Section 11.2 Height Requirements No building shall exceed thirty-five (35) feet in height.

Section 11.3 Yard Requirements

- (a) Front Yard There shall be a front yard having a depth of not less than twenty-five (25) feet.
- (b) Side Yard All lots shall have a side YARD OF NOT LESS THAN TEN (10) FEET ON EACH SIDE. Provided that on a corner lot the side yard on the street side of lot shall not be less than fifteen (15) feet and shall extend from front to rear of the lot.
- (c) Rear Yard All lots shall have a rear yard of not less than twenty-five (25) feet.

Section 11.4 Lot Requirements No building shall be constructed on any lot containing less than five thousand (5,000) square feet.

Section 11.5 General Requirements and Restrictions

- (a) Manufactured housing designed and construction will comply with construction and safety standards published by the Department of Housing and Urban Development pursuant to the requirements of the National Mobile Home and

Safety Standards Act of 1974 and all mobile homes will be subject to inspection by the Building Official.

- (b) All mobile homes, HUD-Code manufactured homes, Industrialized Housing homes and modular homes shall be set on solid slab concrete structure and/or 18” to 20” concrete runners. Additional rooms and enclosed porches shall be constructed on a solid slab.
- (c) All mobile homes shall be securely tied down, blocked and completely skirted prior to occupancy. Provided, however, that this provision shall have no application to mobile homes for which certificates of occupancy have been issued prior to the effective date of this ordinance or for which a building permit has been issued and substantial progress has been made towards certificate of occupancy.
- (d) Accessory buildings will be either manufactured or constructed in accordance with city codes.
- (e) All mobile homes, HUD-Code manufactured homes, Industrialized Housing homes and modular homes shall comply with all regulations of the State of Texas and such regulations are hereby incorporated into this section.

Section 11.6 Restrictions No mobile home or travel trailer shall be located or maintained at any place in the City other than in a mobile home or travel trailer park licensed in conformity with applicable City ordinances when such mobile home or travel trailer is used or to be used at such location for human habitation. No mobile home shall be used for other purposes or stored when not in use on any lot within the City with the exception that a mobile home may be displayed for sale on the premises of a business engaged in the sale of manufactured housing.

SECTION 12: “F” MOBILE HOME PARK DISTRICT

Section 12.1 Permitted Uses In the Mobile Home Park District, “F”, a building or premises may be used only for the following purposes:

- (a) Mobile home park.
- (b) Travel trailer, commercial overnight camping park.
- (c) Sales, display or repair of mobile homes.

Section 12.2 Height Requirements No building shall exceed thirty-five (35) feet in height.

Section 12.3 Yard Requirements

- (a) Front Yard All buildings shall have a twenty-five (25) foot setback from all street and highway rights-of-way creating a front yard having a depth of a minimum of twenty-five (25) feet.
- (b) Side Yard Same requirement as set forth in Section 10.3 (b) of this ordinance.
- (c) Rear Yard All lots shall have a rear yard of not less than fifteen (15) feet.

Section 12.4 Lot Requirements No building, trailer or mobile home shall be placed or constructed on any lot containing less than five thousand (5,000) square feet.

Section 12.5 Privacy Fence Requirement All property zoned “F” Mobile Home Park District which abuts property zoned “A” Single-Family Residential District, “E” then the subject property shall have a privacy fence installed and maintained by the mobile home park property owner along said abutting property line.

SECTION 13: OFF-STREET PARKING AND LOADING SPACE REQUIREMENTS

Section 13.1 Off-Street Requirements

- (a) When any building or structure is erected, or an existing building is enlarged by fifty (50) percent or more in floor area, off-street parking spaces shall be provided in accordance with the following requirements:
- (1) Bowling Alley: Five (5) parking spaces for each alley.
 - (2) Business or Professional Office, Studio, Bank, Medical or Dental Clinic or Similar Use: Three (3) parking spaces, plus one (1) additional parking space for each two hundred (200) square feet of floor area over five hundred (500) square feet.
 - (3) Church or Other Place of Worship: One (1) parking space for each four (4) seats in the main auditorium.
 - (4) Community Center, Library, Museum, or Art Gallery: Ten (10) parking spaces, plus one (1) additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet. If an auditorium is included as a part of the building, its floor area shall be deducted from the total and additional parking provided on the basis of one (1) space for each four (4) seats that it contains.
 - (5) Dance Hall, Assembly or Exhibition Hall without Fixed Seats: One (1) parking space for each one hundred (100) square feet of floor area.
 - (6) Dwellings: Two (2) parking spaces for each single-family dwelling. For two-family and multifamily dwellings, two and one-half (2 1/2) parking spaces for each dwelling unit or one (1) parking space for each bedroom, whichever is greater.
 - (7) Fraternity House, Sorority House or Dormitory: One (1) parking space for each two (2) beds.
 - (8) Furniture or Appliance Store, Hardware Store, Wholesale Establishments, Machinery or Equipment Sales and Service, clothing or Shoe Repair or Service Shop or Similar Use: Two (2) parking spaces, plus one (1) additional parking space for each three hundred (300) square feet of floor area over one thousand (1,000)
 - (9) Golf Courses: Three (3) parking spaces for each hole.
 - (10) Hospital: Ten (10) parking spaces, plus one (1) additional parking space for each four (4) beds.
 - (11) Hotel: One (1) parking space for each sleeping room or suite, plus one (1) space for each two hundred (200) square feet of commercial floor area contained therein, including but not limited to, restaurants, newsstand, and cigar stores.
 - (12) Manufacturing and Industrial Establishment, Research or Testing Laboratory, Creamery, Bottling Plant, Warehouse, Printing or Plumbing

- Shop or Similar Establishment: One (1) parking space for each two (2) employees of the maximum working shift plus spaces to accommodate all trucks and other vehicles used in connection therewith, but not less than one (1) parking space for each six hundred (600) square feet of floor area.
- (13) Mobile Homes, Trailer Houses, Trailer and Mobile Home Courts: Two (2) parking spaces for each mobile home or trailer house.
 - (14) Mortuary or Funeral Home: One (1) parking space for each fifty (50) square feet of floor space in slumber rooms, parlors, or individual funeral service rooms plus one (1) space for each four (4) seats in chapels and auditoriums.
 - (15) Motor Vehicle Salesrooms and Used Car Lots: One (1) parking space for each eight hundred (800) square feet of sales floor or lot area, whichever is greater.
 - (16) Private Club, Lodge or Country Club: One (1) parking space for each one hundred fifty (150) square feet of floor area or for every five (5) members, whichever is greater.
 - (17) Retail Store or Personal Service Establishment, except as otherwise specified herein: One (1) parking space for each two hundred (200) square feet of floor area.
 - (18) Restaurant, Night Club, Café or Similar Recreation or Amusement Establishment: One (1) parking space for each two (2) seats or one (1) parking space for each one hundred (100) square feet of floor area, whichever is greater.
 - (19) Rooming or Boarding House: One (1) parking space for each two (2) sleeping rooms.
 - (20) Sanitarium, convalescent Home, Home for the Aged or Similar Institution: One (1) parking space for each six (6) beds.
 - (21) School, Elementary: One (1) parking space for each four (4) seats in the auditorium or main assembly room, or two (2) spaces for each classroom, whichever is greater.
 - (22) School, Secondary or College: One (1) parking space for each four (4) seats in the main auditorium or ten (10) spaces for each classroom, whichever is greater.
 - (23) Theater, Auditorium (except school), Sports Arena, Stadium or Gymnasium: One (1) parking space for each four (4) seats or bench seating spaces.
 - (24) Tourist Home, Cabin or Motel: One (1) parking space for each sleeping room or suite plus one (1) space for each two hundred (200) square feet of commercial floor area contained therein, including but not limited to, restaurants, newsstands and cigar store.
- (b) The following rules shall be applied in computing the number of off-street parking spaces required for each of the above uses:

- (1) Floor area shall mean the gross floor area of the specific use.
- (2) Fractional spaces shall be rounded to the next higher whole space.

- (3) Buildings or structures containing mixed uses shall provide off-street parking space equal to the sum of various uses computed separately.
 - (4) The off-street parking requirements for a use not specifically listed herein shall be the same as required for a use of a similar nature as determined by the building official.
- (c) All required off-street parking spaces shall be located on the same lot as the building or use served, except as follows:
- (1) When an increase in the number of off-street parking spaces is required by a change or enlargement of use, or where off-street parking spaces are provided collectively or used jointly by two (2) or more buildings or establishments, the required off-street parking spaces may be located at a distance not to exceed three hundred (300) feet from an institutional building served or five hundred (500) feet from any other non-residential building served; provided, however, that a written agreement thereto is properly executed, filed and approved by the board of adjustment as provided below. Distances shall be measured along a public street or alley.
 - (2) Not more than fifty (50) percent of the off-street parking spaces required for theaters, bowling alleys, dancehalls, night clubs, restaurants or similar uses may be provided and used jointly by uses not normally open, used or operated during the same hours as those listed; provided, however, that a written agreement thereto is properly executed and filed as provided below.
 - (3) Not more than eighty (80) percent of the off-street parking spaces required for a church, school auditorium or similar use may be provided and used jointly by uses not normally open, used or operated during the same hours as those listed; provided, however, that a written agreement thereto is properly executed, filed and approved as provided below.
 - (4) When the required off-street parking spaces are not located on the same lot with the building or use served, or when the required off-street parking spaces are provided collectively or used jointly by two (2) or more establishments, a written agreement which assures the retention of such spaces for this purpose shall be drawn and executed by the parties concerned, approved as to form by the city attorney, and filed with the application for a building permit or certificate of occupancy if a change in use is involved. Such agreement then shall be submitted to the board of adjustment that shall, after a hearing thereon, approve or deny such off-site parking.

(d)

- (1) A parking space shall contain a minimum of one hundred sixty-six and one-half (166-1/2) square feet and shall be approximately nine (9) feet in width and eighteen and one-half (18-1/2) feet in depth. All parking spaces, parking or maneuvering aisles and driveways shall be paved.
- (2) A maximum of twenty-five (25) percent of the required number of parking spaces may be a compact size, measuring seven and one-half (7-1/2) feet in width and fifteen (15) feet in depth. Such compact spaces shall be located in

groups of at least five (5) spaces per group, and shall be conspicuously identified by appropriate signs and markings.

Section 13.2 Off-Street Loading Requirements

- (a) Any use that receives or distributes materials or merchandise by vehicle shall provide, when required by use district regulations, off-street loading spaces in accordance with the following requirements:
 - (1) Industrial district: “D” uses, one (1) loading space for each ten thousand (10,000) square feet of floor area.
 - (2) Commercial District: “C” uses, one (1) loading space for each five thousand (5,000) square feet of floor area for the first fifteen thousand (15,000) square feet of floor area.
- (b) The following rules shall be applied in computing the number of off-street loading spaces required:
 - (1) Floor area shall mean the gross floor area of the use.
 - (2) Fractional spaces shall be rounded to the next higher whole space.
 - (3) Whenever a building or use, existing on the effective date of this ordinance, is enlarged by more than fifty (50) percent in floor area or area use, the entire building or use shall then and thereafter comply with the off-street loading requirements.
- (c) The required off-street loading spaces shall be located on the same lot as the building or use served.
- (d) A loading space shall contain a minimum of four hundred twenty (420) feet and shall be approximately twelve (12) feet in width and thirty-five (35) feet in depth. All loading spaces, maneuvering aisles and driveways shall be paved.

SECTION 14: HEIGHT AND AREA REGULATIONS, GENERAL

Section 14.1 Height

- (a) The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers, scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, necessary public or private utilities, conveyors, flag poles and necessary mechanical appurtenances.
- (b) Public or semipublic service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding sixty schools, where permitted, may be erected to a height not exceeding sixty (60) feet and churches and other places of worship may be erected to a

height not exceeding seventy-five (75) feet when each of the required yards is increased by one (1) foot for each two (2) feet of additional building height above the height regulations for the district in which the building is located.

Section 14.2 Front Yards

- (a) Where fifty-one (51) percent or more of the frontage within a block is occupied or partially occupied by a building or buildings with front yards of less depth than required by this ordinance, the remainder of that block may be developed by observing the established front yard line, if approval thereof is granted by the board of adjustment.
- (b) No fence, structure or vegetation placed or allowed to grow within twenty-five (25) feet of intersecting street right-of-way lines shall exceed three (3) feet in height.
- (c) Open or unenclosed terraces, porches or roof eaves or extensions may project into the required front yard for a distance not to exceed four (4) feet; provided, however, no supporting structure for such projections may be located within the required front yard. An unenclosed canopy for a gasoline filling station may extend into the required front yard; provided, such extension shall not be closer than ten (10) feet to a lot line.

Section 14.3 Side Yards

- (a) A roof overhang, open fire escape or outside stairway may project more than three (3) feet into a required side yard: provided such projection is no closer than ten (10) feet to a property line.
- (b) For the purpose of applying side yard regulations, two-family and multifamily dwelling units covered by a continuous roof shall be considered as one (1) building occupying one (1) lot.
- (c) An accessory building shall not project or extend into a side yard abutting a street.
- (d) On a corner lot, the width of the yard along the side street shall not be less than any required front yard on the same side of such street between intersecting streets; providing, however, that the buildable width of a lot shall not be reduced to less than thirty (30) feet.

Section 14.4 Rear Yard An accessory building not exceeding twenty (20) feet in height nor closer than ten (10) feet to any rear or side lot line may be located in the required rear yard; provided such accessory building does not occupy more than twenty-five (25) percent of the rear yard area calculated for any given lot using the required yard and lot dimensions. An unenclosed parking space shall not occupy more than eight (8) percent of the calculated rear yard area.

SECTION 15: NONCONFORMING BUILDINGS AND USES

Section 15.1 Regulations The lawful use of any building, structure or land existing on the effective date of this ordinance may be continuing, although such use does not conform with the provisions of this ordinance; provided, however, the right to continue such nonconforming use shall be subject to the following regulations:

- (a) Normal repairs and maintenance may be made to a nonconforming building or structure; provided that no structural alterations shall be made except those required by law or ordinance or those necessary for installing or enclosing required sanitary facilities, such as toilets and bathrooms.
- (b) Unless otherwise provided, a nonconforming building or structure shall not be added to or enlarged in any manner unless such additions and enlargements are made to conform to all of the requirements of the district in which such building or structure is located.
- (c) A nonconforming building or structure shall not be moved in whole or in part unless every portion of such building or structure is made to conform to all regulations of the district in which it is to be located.
- (d) If a nonconforming building or structure is damaged or destroyed to an extent of less than sixty (60) percent of its fair market value by fire, explosion, act of God or the public enemy, then restoration or new construction shall be permitted. If destruction is greater than sixty (60) percent of its fair market value, such building or structure and its use, if repaired or replaced, shall conform to all regulations of the district in which it is located, and it shall be treated as a new building.
- (e) A vacant, nonconforming building or structure lawfully constructed before the date of enactment of this ordinance may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of ninety (90) days after the effective date of this ordinance. The use of a nonconforming building or structure lawfully constructed before the date of enactment of this ordinance which becomes vacant after the effective date of this ordinance, may be reoccupied by the use for which the building or structure was designed or intended, if so occupied within a period of ninety (90) days after the building or structure becomes vacant. All such buildings, after ninety (90) days of vacancy, shall be converted to a conforming use.

Section 15.2 May Not Be Changed or Expanded The nonconforming use of a building or structure may be continued as hereinafter provided.

- (a) The nonconforming use of a building or structure may not be changed to a use of which does not conform to the requirements of the district in which it is situated.
- (b) A nonconforming use of a conforming building or structure shall not be extended or expanded into any other portion of such conforming building or structure, nor changed except to a conforming use. If such nonconforming use of portion thereof is voluntarily discontinued or changed to a conforming use, any future use of such building or structure or portion thereof shall conform to the regulations of the district in which such building or structure is located.

Section 15.3 Continuation of Existing Uses The nonconforming use of land existing at the time of the effective date of this ordinance may continue as hereinafter provided.

- (a) A nonconforming use of land shall not be expanded, extended or changed to some other use not in compliance with the regulations of the district in which the land is situated.
- (b) If a nonconforming use of land or any portion thereof, is voluntarily discontinued for a period of ninety (90) days, any future use of such land or portion thereof shall be in conformity with the regulations of the district in which such land or portion thereof is located.

- (c) Any sign, billboard or poster panel which lawfully existed and was maintained at the time of the effective date of this ordinance, may be continued, although such use does not conform with the provision of this ordinance; provided, however, that no structural alterations are made thereto.

Section 15.4 Abandonment The nonconforming use of a building, structure or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when:

- (a) The intent of the owner to discontinue the use is apparent; or
- (b) The characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within ninety (90) days; or
- (c) A nonconforming building, structure or land, or portion thereof, which is or hereafter becomes vacant and remains unoccupied for a period of ninety (90) days; or
- (d) A nonconforming use has been replaced by a conforming use.

Section 15.5 Change in District Boundaries Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one district to another district, or when the boundaries of districts are changed as the result of annexation or new territory, or changed in the regulations or restrictions of this ordinance, the foregoing provisions relating to nonconforming uses shall also apply to any uses existing therein which may become nonconforming.

SECTION 16: ADMINISTRATION

Section 16.1 Enforcement This ordinance shall be enforced by the building official appointed by the city council. No oversight or dereliction on the part of the building official or on the part of any official or of employees of the city or county shall legalize, authorize and/or excuse the violation of any of the provisions of this ordinance.

Section 16.2 Permit Required The construction, alteration or repair, removal or reconstruction of any structure or any part thereof as provided, or as restricted herein, shall not be hereafter commenced until after the issuance of a written permit for the same by the building official and in full compliance with the provisions herein, which permit shall be valid for one (1) year unless otherwise noted by the building official.

Section 16.3 Certificate of Occupancy Subsequent to the effective date of this ordinance, no change in the use or occupancy of any land, nor any change or occupancy in an existing building other than for single-family dwelling purposes, shall be made nor shall any new building be occupied until a certificate of occupancy has been issued by the building official. Every certificate of occupancy shall state that the new occupancy complies with all provisions of this ordinance, the approved subdivision ordinance and adopted construction codes.

Section 16.4 District Boundaries Where uncertainty exists with respect to the boundaries of the various districts as shown on the district map accompanying and made a part of this ordinance, the following rules apply:

- (a) The district boundaries are either street or alley centerlines unless otherwise shown, and where the districts designated on the map accompanying and made a part of this ordinance are bound

approximately by the street or alley center lines, the street or alley centerline shall be construed to be the boundary of the district.

- (b) Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the district map accompanying and made a part of this ordinance, are bound approximately by lot lines, the lot line shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.
- (c) In unsubdivided property, the district boundary lines on the map accompanying and made a part of this ordinance shall be determined by the use of the scale appearing on the map.
- (d) IN the case of a district boundary line dividing a property into two (2) parts, the district boundary line shall be construed to be the property line nearest the district boundary line as shown.
- (e) Whenever any street, alley or other public way is vacated by official action of the city council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall thereafter be subject to all regulations of the extended districts.
- (f) Where the streets or alleys on the ground differ from the streets or alleys as shown on the official zoning map, the streets or alleys on the ground shall control.
- (g) If none of the above applies, the board of adjustment shall determine the location of the district boundary.

Section 16.5 Interpretation In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties, except that if this ordinance imposes a greater restriction, this ordinance shall control.

SECTION 17: BOARD OF ADJUSTMENT

Section 17.1 Special Exceptions. The Board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of this ordinance in harmony with its general purpose and intent and in accordance with general or specific rules herein contained.

- (a) All cases to be heard by the board of adjustment will always be heard by a minimum number of four (4) members.
- (b) The board of adjustment shall consist of five (5) members, each to be appointed by the governing body for a term of two (2) years and removable for cause by the governing body upon written charges and after public hearing. There shall also be appointed a maximum of four (4)

alternate members who are afforded the same duties, responsibilities and term of appointment as the members and serve in the absence of one or more members.

Section 17.2 Meetings Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Section 17.3 Appeals Appeals to the board of adjustment may be taken by a person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the building official. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the building official and with the board of adjustment a notice of appeal specifying the grounds thereof. The building official shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

Section 17.4 Appeal Stays Proceedings An appeal stays all proceedings in furtherance of the action appealed from, unless the building official certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to the life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the building official and on due cause shown.

Section 17.5 Hearing The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Section 17.6 Powers The board of adjustment shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the building official in the enforcement of this ordinance.
- (b) To hear and decide special exceptions to the terms of this ordinance upon which the board is required to pass.
- (c) To authorize, upon appeal in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

Section 17.7 Extent of Powers In exercising the above mentioned powers the board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the building official from whose action the appeal is taken.

Section 17.8 Vote The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of the building official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in this ordinance.

Section 17.9 Time Limitation on Order Permitting Erection of Building No order of the board of adjustment permitting the erection or alteration of a building shall be valid for a period longer than six (6) months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

Section 17.10 Time Limitation on Order Permitting Use of Building No order of the board of adjustment permitting a use of a building or premises shall be valid for a period longer than six (6) month, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

Section 17.11 Jurisdiction of the Board of Adjustment In specific cases the board of adjustment may authorize by permit variation of the minimum yard and area standards herein established in harmony with their general purpose and intent; variation of the use of buildings and land.

Section 17.12 Appeals from action of the Board of Adjustment Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board.

Section 17.13 Procedure of Court on Appeal Upon presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Section 17.14 Records of Board of Adjustment on Appeal The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient on return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

Section 17.15 Action of Court on Appeal If, upon hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly, or may modify the decision brought up for review.

Section 17.16 Costs on Appeal Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence or in bad faith, or with malice in making the decision appealed from.

SECTION 18: ZONING OF ANNEXED AREAS

Section 18.1 Zoning Annexed Areas All territory hereafter annexed to the city shall automatically be temporarily classified as "A" Single-family residential District until permanently zoned by the city council. The planning and zoning commission shall, as soon as practicable after annexation of any territory, recommend to the city council a plan for permanent zoning in the area.

Section 18.2 Permits in Temporary Zoned Areas In an area temporarily classified as “A” single family Residential district, no permits for the construction of a building or use of land other than for uses allowed in said district under this ordinance shall be issued by the building official.

SECTION 19: VIOLATION AND PENALTIES

Section 19.1 Violation and Penalties The owner of a building or premises in or upon which a violation of any provision of this ordinance has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist, or the agent, architect, building contractor or any other person, firm or corporation who commits, takes part or assists in any violation, or who maintains any building or premises in or upon which such violation exists, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed two hundred dollars (\$200.00). Each day such violation continues, may constitute a separate offense.

Section 19.2 Other Remedies In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this ordinance, the appropriate authorities of the city, in addition to other remedies, may institute appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use to correct or abate such violation or to prevent the occupancy of such building, structure or land.

SECTION 20: CHANGES AND AMENDMENTS

Section 20.1 General Authority The city council may from time to time by ordinance amend, supplement, change, modify or repeal the boundaries of the various districts or the regulations herein established. Before taking any such action, the city council shall submit the same to the planning and zoning commission for its recommendations and report.

Section 20.2 Procedure Before the Planning and Zoning Commission

- (a) The planning and zoning commission shall hold a public hearing on all proposed changes in zoning regulations or district boundaries and written notice of all such public hearings shall be sent to all owners of real property lying within two hundred (200) feet of the property on which the change in zoning regulations or district boundaries is proposed. Such notice shall be given, not less than ten (10) days before the day set for hearing to all such owners who have rendered their property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in a United States post office. Where lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the city after the final date for making renditions which are included on the last approved city tax roll, notice to such owners shall be given by publishing the same in a newspaper of general circulation in the City of Eden, at least fifteen (15) days prior to the date set for hearing, and which shall state the time and place of such hearing.
- (b) After such hearing, the planning and zoning commission shall make its recommendation regarding the change in zoning regulations and district boundaries.
- (c) Each such recommendation made by the planning and zoning commission shall be reported to the city council, in writing, and the applicant shall be notified of the action of the planning zoning commission.

- (d) The planning and zoning commission shall establish and maintain a separate file for each application received, and shall record the names and addresses of all persons, firms and corporations to whom notices are mailed, including the date of mailing and the persons by whom such notices were delivered to the United States post office. All records and files herein provided shall be permanent and official files of the City of Eden.

Section 20.3 Procedure Before the City Council

- (a) After receiving the recommendation of the planning and zoning commission, the city council shall hold a public hearing, concerning the same, at the earliest practicable time, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Eden.
- (b) When the planning and zoning commission has recommended a change in zoning regulations or district boundaries, the city council shall be at liberty to either accept, reject or take other action provided such action is consistent with the public notice and the provisions of this ordinance.
- (c) If the planning and zoning commission has recommended against a proposed amendment, supplement, change or modification or if a protest against such change signed by the owners of twenty (20) percent or more of either the area of lots included in such proposed change or of those immediately adjacent in the rear thereof extending two hundred (200) feet therefrom, or of those directly opposite thereto extending two hundred (200) feet therefrom the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all members of the city council.
- (d) If the city council has refused to grant a proposed amendment, supplement, change or modification in the boundaries of any zoning district, such amendment, supplement, change or modification in the boundaries of such zoning district shall not be submitted again prior to the expiration of twelve (12) months from the date of the order or decision of the city council against such zoning change.

SECTION 21: VALIDITY

Section 21.1 Validity Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so of this ordinance are hereby expressly repealed.

PASSED AND APPROVED the 14th day of July, 1992

MAYOR

ATTEST:

CITY SECRETARY

EXHIBIT A

Description of Boundaries of Original Zoning Districts

I. The "A" Single Family Residential District shall include all land not included within any other district.

II. The "C" Commercial district shall include all land within the following boundaries:

BEGINNING at the intersection of the center of U.S. Highway 87 and the West city limit line of the City of Eden, Texas;

THENCE South to a point which is due West of the Southwest corner of Block 24 of the Benchoff Addition;

THENCE East with the South lines of Blocks 24,23,18,17,12,11,6 and 5 of the Benchoff Addition to the Southeast corner of said Block 5;

THENCE East across Benchoff Street to the Southwest corner of Lot 5, Block 1 of the Benchoff Addition, continuing Easterly with the South line of said Lot 5 to the Southwest corner of said Lot 5;

THENCE East across an alleyway to the Southwest corner of Block 1 of the Coggin Addition;

THENCE East with the South line of block 1 of the Coggin Addition to a point in the center line of Concho Street;

THENCE South with the center line of Concho Street to its intersection with the center line of Blanchard Street;

THENCE East with the center line of Blanchard Street to its intersection with the center line of Steefox Street;

THENCE South with the center line of Steefox Street to its intersection with the center line of Oak Street;

THENCE West with the center line of Oak Street to its intersection with the center line of Merino Row Street;

THENCE South with the center line of Merino Row Street to its intersection with the center line of Pecan Street;

THENCE East with the center line of Pecan Street to its intersection with the South right-of-way line of the G.C. & S. F. Railway Co. railroad tract right-of-way near the intersection of Pecan Street and Steefox Street;

THENCE in a Southeasterly direction with the South line of said railroad right-of-way across U.S. Highway 87 to a point where the railroad right-of-way intersects with the center line of Moss Street (closed);

THENCE North with the center line of said Moss Street to its intersection with the center line of East Oak Street;

THENCE West with the center line of East Oak Street to its intersection with the center line of Gordon Street;

THENCE North with the center line of Gordon Street to its intersection with the center line of Blanchard Street;

THENCE West with the center line of Blanchard Street to its intersection with the center line of Johnson Street (extended South);

THENCE North with the center line of Johnson Street to its intersection with the center line of Jackson Boulevard;

THENCE East with the center line of Jackson Boulevard to a point in the West line of the Hoskins Subdivision;

THENCE South with the West line of said Hoskins Subdivision to a point in the center line of Lee Street;

THENCE with the center line of Lee Street to a point where Lee Street intersects with the center line of Moss Street (closed);

THENCE South with the center line of Moss Street to its intersection with the center line of King Street;

THENCE East with the center line of King Street to its intersection with the line of Barnett Street;

THENCE South with the center line of Barnett Street to its intersection with the North line of Autry Street;

THENCE East with the North line of Autry Street to a point where said street ends;

THENCE East along the South line of the J.R. Robbins Estate property and the J.A. Williams Estate property to a point in the East boundary line of the city limits of the city of Eden, Texas;

THENCE North with the East boundary line of the city limits to its intersection with the center line of U.S. Highway 87;

THENCE West with the center line of said U.S. Highway 87 and with the present boundary line of the city limits of Eden, Texas, to a point where the city limit boundary turns in a Northerly direction;

THENCE North with the present boundary line of the city limits to a point where the city limit boundary turns in a Westerly direction;

THENCE West with the present city limits boundary to a point in the East line of the R.W. Farris tract where the city limits boundary turns in a Northerly direction;

THENCE South with the East line of said R.W. Farris tract to the Southeast corner of said tract;

THENCE West with the South line of said R.W. Farris tract to the Southwest corner of said tract;

THENCE South with the East line of the W.T. Stewart tract to a point in the center line of the East end of Ward Street;

THENCE East with the center line of Ward Street to its intersection with the center line of the old Eden-Millersview Road;

THENCE South with the center line of the old Eden-Millersview Road to its intersection with the center line of the East end of Taft Street (extended);

THENCE West with the center line of Taft Street to its intersection with the center line of Kelly Street;

THENCE North with the center line of Kelly Street to a point due East of the Southeast corner of block 4 of the Hillside Addition;

THENCE West with the South line of said Block 4 of the Hillside Addition, passing its Southwest corner, to a point in the center line of U.S. Highway 83;

THENCE North with the center line of said Highway 83 to a point in the center line of said U.S. Highway 83 located due East of the Northeast corner of the Day-Loveless tract;

THENCE West with the North line of said Day-Loveless tract and the North line of the Nannie Malloy tract to a point in the center line of Burleson Street;

THENCE South with the center line of Burleson Street to its intersection with the center line of Garden Street:

THENCE West with the center line of Garden Street to its end and then continuing due West across Hardin Creek and the Albert F. Fowler tract to a point in the West boundary line of the city limits;

THENCE in a Southwesterly direction with the present city limits boundary to the place of beginning.

III. The "D" Industrial District shall include the land hereinafter described:

Tract One:

Being 63.28 acres out of the Northwest part of the H.E & W.T. R.R. Co. Survey No. 4, Abstract No. 1632, Concho County, Texas, and being out of the North part of a 140.98 acre tract described in a Deed from Elizabeth G. Drinkard to Troy B. Drinkard recorded December 15, 1948, in Volume 69, page 136, Deed Records, Concho County, Texas, and being described by metes and bounds as follows:

BEGINNING at a ½ inch pipe set by a cedar “T” corner post for the Northwest corner of said Survey No. 4, and the Southwest corner of the J.V. Massey Survey No. 81, for the Northwest corner hereof, and being the Northwest corner of said 140.98 acres;

THENCE with a fence for the North line hereof and the North line of said 140.98 acres, North 89 degrees 52’ 24” East 873.6 feet, and North 89 degrees 39’ 43” Northeast corner thereof and being the Northeast corner of said 140.98 acres;

THENCE with a fence for the East line hereof and the East line of said 140.98 acres, South 00 degrees 16’ 23” West 1299.15 feet to a ½ inch pipe set in said fence for the Southeast corner hereof and being the Northeast corner of an adjoining 72.758 acre tract, out of said 140.98 acres;

THENCE with a division line for the south line hereof, South 89 degrees 04’ 03” West, at 394.17 feet pass a ½ inch pipe, at 812.84 feet pass a ½ inch pipe, a total distance this course of 1108.68 feet to a ½ inch pipe set by an “L” corner post for the Northwest corner of said 72.758 acres and being the approximate Northeast corner of the McCall and Anderson Addition to the City of Eden, Texas;

THENCE continuing with a fence for the south line hereof, south 89 degrees 02’ 58” West 692.68 feet to a ½ inch pipe set for the most southerly southwest corner hereof and being the Southeast corner of a 4.66 acre tract described in a Deed from Troy B. Drinkard ex ux to Television Enterprises, Inc. recorded in Volume 128, page 272, Deed Records, Concho County, Texas;

THENCE with the East line of said 4.66 acres, North 00 degrees 18’ 05” West 450.0 feet to a 1/2/ inch pipe set for the Northeast corner of said 4.66 acres;

THENCE with the North line of said 4.66 acres, South 89 degrees 03’ 13” West 450.0 feet to a 1/2/ inch pipe set in a fence for the Northwest corner of said 4.66 acres and being the most westerly Southwest corner hereof;

THENCE with a fence being on or near the West line of said Survey No. 4 or the West line hereof, and being the East line of a street, North 00 degrees 00’ 56” West 876.0 feet to the place of beginning.

Tract Two:

Being that certain tract of land out of and a part of T.B. Drinkard Survey No. 4, Abstract No. 1632, Concho County, Texas, more particularly described in that certain Deed dated May 16, 1985, executed by H.J. Riley et ux to Eden Detention Center, Inc. recorded in Volume 137, page 499, Deed Records, Concho County, Texas, and said Deed and the record thereof are both here referred to and incorporated herein for descriptive purposes.

IV. The “E” Manufactured Housing District shall include all of the following property:

Lots 1 through 9, inclusive, in Block No. 25 of the McCall and Anderson Addition, as shown on the official plat of the City of Eden, Concho County, Texas, reference to which plat and the record hereof is hereby made for all pertinent purposes.

V. The “F” Mobile home Park District shall include all of the following property:

Tract One:

Lot 1 of block 2 of the Ballard Addition, as shown on the official plat of the City of Eden, Concho County, Texas, reference to which plat and the record hereof is hereby made for all pertinent purposes.

Tract Two:

Lots 1 and 4 of Block 5 of the Walker Addition, as shown on the official plat of the City of Eden, Concho County, Texas, reference to which plat and the record hereof is hereby made for all pertinent purposes.