



ORDINANCE NO. 2014-3551

AN ORDINANCE AMENDING CHAPTER 106 "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF LA PORTE IN ITS ENTIRETY IN CONNECTION WITH COMPREHENSIVE REVIEW AND UPDATE; PROVIDING THAT ANY PERSON VIOLATING THE TERMS OF THIS ORDINANCE SHALL BE DEEMED GUILTY OF A MISDEMEANOR AND UPON CONVICTION SHALL BE FINED IN A SUM NOT TO EXCEED TWO THOUSAND DOLLARS; PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING AN EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA PORTE, TEXAS:

**Section 1:** That Chapter 106, "Zoning," of the Code of Ordinances of the City of La Porte, Texas, is hereby amended in its entirety and shall hereinafter read as follows:

**"ARTICLE 1. IN GENERAL**

**Sec. 106-1. Definitions.**

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

*Abutting* means having property or district lines in common, or two objects in immediate contact.

*Access* means of approaching or entering a property, includes a right of passage to and from an adjacent street.

*Accessory structure (applicable to non-residential uses)* means 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 in the same lots as that of the principal structure or use.

*Accessory structure, use or building without required principal structure (applicable to large lot district residential uses)*. Toolhouses, barns, sheds, storage buildings and livestock, without a principal structure, shall be permissible use when located on tracts one acre in size or larger and situated within the large lot district. Structure/use shall be for the property owner's personal use only (commercial use is not allowed).

*Accessory use or building (applicable to residential uses)*. An "accessory use or building" is one customarily a part thereof, which is clearly incidental and secondary to permitted use and which does not change the character thereof, including but not limited to garages, carports, bathhouses, greenhouses, tool sheds, or swimming pools.

*Alley* means a public way which, when at least 16 feet in width, may be used for vehicular service access to the back or side of properties otherwise abutting on a street or highway.

*Apartment*. See dwelling, multifamily.

*Artisan Shop* means a micro-manufacturing facility designed for creation and retailing products.

*Artisan* means a skilled worker who makes items that may be functional or strictly decorative, including but not limited to furniture, sculpture, clothing, jewelry, household items, tools, and handmade machines such as a watch.

*Bed and breakfast* means a building, the primary use of which is a single-family residence, in which sleeping rooms are available for overnight rental, subject to the restrictions in section 106-744 (Bed and breakfast).

*Boardinghouse* means a building, built and/or used for residential purposes, where meals for five or more persons are served for compensation.

*Buildable area* means the area of the building site left to be built upon after the required yard area has been provided.

*Building* means any structure built for the support, shelter, or enclosure of persons, chattels or property of any kind and which is affixed to the land.

*Building articulation* means the division of a building façade into distinct sections; the materials, patterns, textures, and colors that add visual interest to a building or façade.

*Building codes* means all building regulations referred to in the City Code of Ordinances.

*Building inspector* means the designated chief building official of the city or his/her designated representatives. Also see enforcing officer.

*Building line.* See setback line.

*Building permit* means an instrument in writing signed by the building inspector authorizing described construction on a particular lot. Refer to the City Code of Ordinances for additional information.

*Business frontage* means the linear measurement of the side of the building which contains the primary entrance of the building.

*Caliper* means the diameter of the main stem or trunk of a tree measured at six inches above the ground.

*Carport* means a roofed structure, freestanding or attached to another structure designed to provide covered parking for vehicles. A carport shall have no enclosing walls. A structure shall not be considered to be a carport unless it is located directly over a driveway.

*Clinic* means an institution, public or private, or a station for the examination and treatment of patients by an individual or group of doctors, dentists, or other licensed members of a human health care profession.

*Controlled access highway* means any thoroughfare which is a high volume freeway (without signalization on principal lanes) designed for four to eight main lanes and four service lanes with a right-of-way capacity that allows two to four additional lanes.

*Controlled access highway corridor* means a corridor extending 500 feet to either side of the right-of-way of a controlled access highway as designated on the city's land use map.

Notes:

The definition of Controlled Access Highway (with some minor rephrasing) was taken from Volume One, Section 1.3 of the city's comprehensive plan.

Controlled access highway corridors are established on the city's land use map and designated by a cross hatched highlight. State Highway 225 and New State Highway 146 are the only thoroughfares within the city presently designated as controlled access highways.

Interim sign regulations. Signs located within a controlled access highway corridors shall be limited to a maximum height of 65 feet.

*Commercial amusement or recreation* means an enterprise whose main purpose is to provide the general public with an amusing or entertaining activity, where tickets are sold or fees collected at the gates of the activity. Commercial amusements include zoos, carnivals, expositions, miniature golf courses, driving ranges, arcades, fairs, exhibitions, athletic contests, rodeos, tent show, Ferris wheels,

children's rides, roller coasters, skating rinks, ice rinks, traveling shows, bowling alleys, pool parlors, and similar enterprises.

*Commercial motor vehicle* means any motor vehicle designed or used for the transportation of persons or property for hire, with a rated carrying capacity in excess of one ton, including every vehicle used for delivery purposes.

*Common property* means a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites.

*Condominium* means two or more dwelling units on a lot with individual ownership of a unit rather than a specific parcel of real property; together with common elements. See City's Code of Ordinances.

*Conservation area* means a designation on the land use and zoning maps representing an area of natural undeveloped land, characterized by scenic attractiveness. When so designed, all conservation areas require a minimum setback of all buildings to be 20 feet from the edge of the stream or bayou bank, right-of-way line, or other natural features.

*Convalescent home* means any structure used or occupied by three or more persons recovering from illness or receiving geriatric care for compensation.

*Convenience store* means a small store that is open long hours and that typically sells staple groceries, snacks, and sometimes gasoline and diesel.

*Corner lot* means a lot abutting upon two or more existing or proposed street rights-of-way at their intersections.

*Curb* means a restraint located upon the edge of a parking lot, not necessarily continuous, that restrains automobiles or other vehicles from access to an adjoining street, sidewalk, alley way, adjacent property, or other adjoining use. As defined in this chapter, the term "curb" includes a generic precast concrete curb stop.

*Density* means the measure of a degree to which land is filled with units designed to accommodate a particular use as such use is set forth in this chapter. Measurements allow inclusion of internal streets and public ways required to be dedicated in calculating density per acre. Streets dedicated, improved and accepted prior to platting or the property shall not be counted.

*Developed site area* means that area which is being developed as per definition by the development ordinance.

*Development ordinance* means the city development ordinance, being Ordinance No. 1444, together with any amendments thereto.

*Director* means that person holding the position of director of the planning department for the city or his designated representative.

*District* means a zoning district which is a part of the city wherein regulations of this chapter are uniform.

*Dormitory* means a space in a unit where group sleeping accommodations are provided with or without meals for persons not members of the same family group in one room or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories, fraternity houses, military barracks, and ski lodges.

*Duplex* means a building built for, occupied by, or intended for the occupancy of two families, and containing two dwelling units.

*Dwelling* means a building or portion thereof other than manufactured housing or recreational vehicles, designed and used exclusively for residential occupancy, including one-family dwellings, two-family dwellings, and multi-family dwellings, but not including hotels, motels or lodging houses.

*Dwelling, attached* means a dwelling which is joined to another dwelling at one or more sides by party wall or walls.

*Dwelling, detached* means a dwelling which is entirely surrounded by open space on the same building lot.

*Dwelling, single-family* means a residential building, other than manufactured housing or recreational vehicles designed for occupancy for one family only.

*Dwelling, multi-family* means a residential building designed for occupancy of more than four families, with the number of families not to exceed the number of dwelling units.

*Dwelling, two-family*. Refer to duplex.

*Dwelling unit* means a single unit providing complete, independent living facilities for one or more person including permanent provisions for living, sleeping, eating, cooking and sanitation.

*Efficiency apartment* means an apartment without a bedroom separate from other living quarters.

*Enforcing officer* means the chief building official of the city or his designated representative.

*Façade, primary* means that portion or portions of a wall of any permanent structure that is visible from any public right-of-way.

*Façade, secondary* means that portion or portions of a wall of any permanent structure that is not considered the primary façade.

*Façade, tri-partite* means a façade that consist of a base, middle, and capitol (or cornice).

*Family* means any number of related persons or, not more than four unrelated persons living as a single housekeeping unit.

*Fence* means a manmade structural barrier erected on or around a piece of property or any portion thereof.

*Floor area* means the sum total area of all floors as calculated from measurements to the outside walls.

*Foundation system* means an assembly of materials constructed below, or partially below-grade, not intended to be removed from its installation site, which is designed to support the structure and engineered to resist the imposition of exterior natural forces, as defined by the Standard Building Code. Such foundation system shall be skirted or enclosed with wood, or masonry to give the appearance of a solid foundation, if one is not provided, compatible with the appearance of adjacent housing.

*Fowl* means any goose, chicken, peacock, guinea, duck, turkey, and/or other member of the bird family.

*Freestanding sign* means an outdoor sign supported by uprights or braces placed in or upon the ground, or mounted on a vehicle, trailer, or mobile structure principally used for the purpose of advertising or display of information. For the purpose of this chapter, a portable sign shall be considered to be a freestanding sign.

*Garage, private* means an accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is an accessory.

*Garage, public* means a building or portion thereof, other than a private or storage garage, designed or used for servicing, repairing, equipping, hiring, selling, or storing motor driven vehicles.

*Glare* means emitted light which exceeds 60 footcandles.

*Grade* means a referenced plane representing the average of finished ground level adjoining the building and all exterior walls.

*Grand opening* means the formal offering by a new business of its goods, wares, merchandise, service, entertainment, or activity.

*Grazing livestock* means domestic livestock (including but not limited to cattle, horses, sheep, goats, hogs etc.) that are intended to be pasture animals that can sustain themselves under normal circumstances in concentration defined herein in this chapter.

*Greenway corridor* means a publicly owned system of trails and walkways, patterned in the open space and pedestrian system plan, and is designated on the land use map, park zone map, and zoning map of the city, that link existing and proposed neighborhood, community, and regional parks with each other and other proposed activity areas of the city. These trails and walkways, are in their majority within existing right-of-way, but may be within proposed right-of-way to be acquired by the city. Greenway corridors are a special use site, as said special use site is defined in the city's development ordinance, section 12.07.

*Group care facilities* means residential facilities designed to provide a transition from traditional treatment facilities to normal daily living for special populations such as the mentally retarded, physically handicapped, or substance users. These facilities include but are not limited to half-way houses and group homes.

*Hardship* means a determination made by the zoning board of adjustment in hearing a variance request in accordance with section 106-192 (Variance).

*Height of building* means the vertical distance from grade 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 2.5/12; height of a building in stories does not include basements and cellars, except as specifically provided otherwise.

*Heavy truck* means any motor vehicle or towed vehicle with a gross vehicle weight rating (GVWR), Registered Gross Vehicle Weight (RGVW), or an actual weight, whichever is greater, of 26,001 lbs. or more or any combination of vehicles where the gross combined weight rating, total registered gross vehicle weight or the actual weight of the combination is 26,001 lbs. or more.

*High Frequency Truck Road* means a road designated by the city intended to accommodate the heavy truck uses referenced in section 106-746 (Location of heavy truck uses).

*Home occupation* means an occupation limited to custom production, repairing, and servicing, conducted at a dwelling unit, provided it conforms to the requirements in section 106-749 (Home Occupation), and provided that said occupation does not involve general retail sales.

*Home owners association* means an incorporated, nonprofit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a planned unit or other described land area is automatically a member, (b) each lot is automatically subject to charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and (c) the charge, if unpaid, becomes a lien against the property.

*Hospital, sanitarium, nursing or convalescent homes* mean a building or portion thereof, used or designed for the housing or treatment of sick, aged, mentally ill, injured, convalescent or infirm persons; provided that this definition shall not include rooms in any residential dwelling, hotel, or apartment hotel ordinarily intended to be occupied by said persons.

*Identification sign* means any sign which carries only the firm, business or corporate name, the major enterprise on the premises, or the principal products offered for sale on the premises.

*Industrial housing and buildings* means a residential or commercial structure that is constructed in one or more modules or constructed using one or more modular components, built to the specifications of the Texas Department of Licensing and Regulation (T.D.L.R.) Rules and Regulations and designed to be placed on a permanent foundation system consistent with the above requirements. Such industrialized house or building must bear a T.D.L.R. approved decal or insignia permanently affixed to each transportable section or component of each industrialized house or building to indicate compliance with the state standards. An industrialized house or building is not a mobile or manufactured home as defined herein.

*Landscape buffers* means use of landscaping to provide separation between dissimilar land uses. Width is based on the zoning of the development and abutting property and adjoining streets.

*Landscaped* means adorned or improved by contouring land and placing thereon live flowers, shrubs, trees, grass, wood, stone, and ponds or streams.

*Light truck* means any truck, as defined in this chapter, with a limited manufacturers rated carrying capacity. This definition is intended to include those trucks with such rated carrying capacity being not in excess of one ton, panel delivery trucks and carryall trucks.

*Loading berth* means a parking area provided for commercial motor vehicles, designed for the receipt or distribution by such vehicles of materials or merchandise to or from the use to which such parking area is accessory.

*Loading Dock* means a recessed bay in a building or facility where trucks are loaded and unloaded. They are commonly found on commercial and industrial buildings and warehouses in particular. Loading docks may be exterior, flush with the building envelope, or fully enclosed. They are part of a facility's service or utility infrastructure, typically providing direct access to staging areas, storage rooms, and freight elevator.

*Lot area per dwelling unit* means the lot area required for each dwelling unit located on a building lot.

*Lot, corner* means a building lot situated at the intersection of two existing or proposed street rights-of-way, the interior angle of such intersection not exceeding 135 degrees.

*Lot coverage* means the area under roof on any given lot.

*Lot, depth* means the mean horizontal distance between the front lot line and the rear lot line of the building lot measured within the lot boundary.

*Lot, interior* means a building lot other than a corner lot.

*Lot line* means a boundary of a building lot.

*Lot line, front* means that boundary of a building lot which is the line of an existing or dedicated street. Upon corner lots either street line may be selected as the front lot line providing a front and rear yard are provided adjacent and opposite, respectively to the front lot line.

*Lot line, rear* means that boundary of a building lot which is most distant from and is, or is most nearly parallel to the front lot line.

*Lot line, side* means any boundary of a building lot which is not a front lot line or a rear lot line.

*Lot of record* means an area of land designated as a lot on a plat of a subdivision recorded pursuant to statutes of the state with the county clerk or an area of land held in single ownership described by metes and bounds upon a deed recorded or registered with the county clerk.

*Lot, residential large* means a home site for a single-family home that is comprised of at least one acre (43,560 square feet). Minimum lot width shall be 90 feet.

*Lot, single-family dwelling, special* means any residential lot for single-family dwelling purposes with an area of less than 6,000 square feet, but greater than 4,500 square feet.

*Lot, through* means a building lot not a corner lot, both the front and rear lot lines of which adjoin street lines. On a through lot both street lines shall be deemed front lot lines.

*Lot, width* means the minimum distance measured in a straight line between the side lot lines of a building lot along a straight line, which shall be on the side of the building.

*Manufactured housing* means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 feet in length, or, when erected on-site, is 320 or more square feet in size and which is built on a permanent chassis and designed to be used as a dwelling with or without a foundation system when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Such manufactured housing may or may not be constructed under H.U.D. specifications.

*Manufactured housing parks* means a development under single ownership intended for the rental or leasing only of manufactured housing units and recreational vehicles.

*Manufactured housing subdivision* means a subdivision designed and/or intended for the sale of lots for residential occupancy by manufactured housing meeting H.U.D. specifications as established under the National Manufactured Housing Construction and Safety Act.

*Mixed use district* means a zoning district intended to allow for residential and limited commercial uses or a mix of residential and commercial uses scaled in such a manner as to complement the immediate neighborhood.

*Mobile home* means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

*Multi-family residential development* means the use of a lot for ~~four~~ or more than two dwelling units, within one or more structures. This includes an apartment complex.

*North American Industry Classification System (NAICS)* divides the economy into twenty sectors – brings together those activities that transform information into a commodity that is produced and distributed, and activities that provide the means for distributing those products, other than traditional wholesale-retail distribution channels.

*National Manufactured Housing Construction and Safety Act of 1974* means the federal act which governs the standards for construction, design, and performance of manufactured homes or mobile homes built in the United States since June 15, 1976 defined as homes meeting H.U.D. specifications.

*New business* means a project or undertaking which involves the use of any property, building, or structure, permanent or temporary, for the primary purpose of conducting in such building or structure or on such property a legitimate commercial enterprise or other nonresidential use, in compliance with all ordinances and regulations of the city and when such project or undertaking is new to the premises. Provided however, a change in ownership of at least 50 percent of the ongoing project or undertaking shall constitute a new business, for the purposes herein and, provided further, expansion of an existing building or structure shall constitute a new business if such expansion increases the size of the area devoted to primary use, in building floor square footage, by not less than 50 percent.

*Nonconforming Lot, Use, or Structure* means the one which does not conform to the regulations of this chapter.

*Occupancy* means any utilization of property.

*Office trailer* means a structure, transportable in one or more sections which is built on a permanent chassis and intended to be used for office space or storage with or without a permanent foundation system and with or without utility connections.

*Off-premises sign* means any sign which directs attention to any business, commodity, service or entertainment offered elsewhere than on the premises where such sign appears.

*On-premises sign* means any sign which directs attention to a business, commodity, service or entertainment offered on the same premises where such sign appears.

*Open space* means the area, excluding parking, street, alley, service walk or other service areas, but including any side, rear, or front yard or any unoccupied space on a lot that is unobstructed to the sky, except for the ordinary projections of cornices, eaves, porches or trellises. Developed open space shall be defined as recreational space developed with facilities for either active or passive recreation not within any required yard.

*Parking space* means a surfaced area, designed to control dust and moisture, enclosed or unenclosed, sufficient in size to store one automobile together with a surfaced driveway connecting the parking space with the street or alley permitting ingress and egress of an automobile. A parking space or any requisite maneuvering area incidental thereto shall not occupy any public right-of-way.

*Party wall* means a fire wall on an interior lot line, used or adapted for joint service between two buildings.

*Planned unit development* means a land area characterized by a unified site design which (a) has individual building sites and provides common open spaces, and (b) is designed to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property. The ownership of the common property may be either public or private. It may be a single planned unit development as initially designed; or as expanded by annexation of additional land area; or a group of contiguous planned unit developments, as separate entities or merged into a single consolidated entity.

*Pole trailer* means every vehicle without motive power designed to be drawn by another vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transportation of long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

*Political sign* means a temporary sign announcing, supporting or opposing political candidates, dates or issues in connection with any national, state or local election.

*Portable sign* means a sign which is not permanently and rigidly affixed or attached to the ground and is designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted on a trailer, wheeled carrier, or other non-motorized mobile structure. This definition shall also include any vehicle or trailer parked so as to be visible from a public right-of-way for the primary purpose of advertisement of products or directing people to a business or activity located on the same or nearby property or any other premises.

*Principal or Primary Building* means a building or buildings in which the permitted and/or principal use of the lot on which such use is situated is conducted.

*Public improvements criteria manual (P.I.C.M.)* means the set of standards set forth by the director of planning and approved by the city council to determine the specific technical requirements for construction to public improvements. The manual may be acquired from the community development department, and is on file in the city secretary's office.

*Public parks* means any publicly owned park, playground, beach, parkway, or railroad within the jurisdiction and control of the city.

*Public service sign* means the following types of signs and no others shall be considered to be public service signs.

- (1) Signs identifying and naming the location of churches, schools and other nonprofit organizations;
- (2) Signs identifying and naming the location of public facilities; and
- (3) Community information signs which provide information regarding community functions and activities.

Signs which display commercial advertising in conjunction with public service information shall not be considered to be public service signs except that a person, firm, or organization who donates or otherwise provides a public service sign may be identified on such sign in a means which is clearly incidental to the primary message.

*Quadraplex* means four single-family dwelling units joined by common sidewalls, and/or common floors/ceilings.

*Ranch trailer* means a vehicle with or without motive power other than a pole trailer designed for carrying livestock, ranch implements, or other moveable personal property attendant to the business or recreational use of the raising of livestock or crops.

*Reader panel* means any and all portions of any sign on which text, graphics or pictures are displayed. In the case of double faced reader panels, only one side shall be considered in the calculation of sign size.



*Recreational livestock* means domestic livestock (including but not limited to cattle, horses, sheep, goats, hogs etc.) that are intended to be housed in a barn or similar structure, requiring supplemental feed and care in order to be kept in concentration defined in this chapter.

*Recreational vehicle* means a camp car, motor home, trailer, or tent trailer with or without motive power, designed for human habitation or recreational occupation, having less than 320 square feet.

*Rest home or nursing home* means a private home for the care of the aged or infirmed or a place of rest for those suffering bodily disorders. Such homes do not contain facilities for surgical care or the treatment of disease or injury.

*Roofline* means the height above finished grade of the upper beam, rafter, ridge or purlin of any building.

*Semi-trailer* means every vehicle, with or without motive power, other than a pole trailer or ranch trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

*Setback line* means the closest point to any property line or utility easement which may be occupied by a structure.

*Setback, sign measurement* means the closest point to any property line which may be occupied by any sign, as defined by this chapter. This point shall be determined by measuring perpendicularly from adjacent property lines.

*Sexually oriented business* means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

*Shall* is always mandatory; *may* is always permissive.

*Shipping container* means an article of transportation equipment or storage, whether or not carried on a chassis, that is strong enough to be suitable for repeated use and is designed to facilitate the transportation of goods by one or more means of transportation and includes but is not limited to intermodal shipping containers; but does not include a motor vehicle.

*Shopping center or integrated development* means a development consisting of two or more interrelated business establishments using common driveways and on-site parking facilities.

*Sign* means any word, number, figure, device, design or trademark by which anything is made known, as used to designate an individual, firm, profession, business, or a commodity and which is visible from any public street. Refer to City's Code of Ordinances for additional definitions. For the purpose of this chapter, a sign is a structure.

*Single-family residential development* means a grouping of single-family dwelling units (attached or detached). This includes single-family residential subdivisions.

*Single-family residential, large lot* means any single tract or lot comprised of at least 43,560 square feet of property, whose primary use is for a single-family dwelling unit.

*Site area per unit* means the total area, including public and private streets, for a proposed development divided by the total number of units proposed. Used to determine the maximum density permitted for a development.

*Site plan, certified* means, in the case of all uses, a scaled drawing showing the use of the land to include locations of buildings, drives, sidewalks, parking areas, drainage facilities, and other structures to be constructed in relationship to surveyed boundaries. Such site plan shall be certified by a registered engineer or surveyor, licensed as such in the state. Under the terms of the development ordinance number 1444 on file in the city secretary's office, when a development site plan is required, such development site plan shall be prepared in accordance with the terms of such ordinance and shall be accepted as a certified site plan as required herein.

*Special exception* means only those exceptions provided for under section 106-191 (Special Exceptions).

*Street, private* means a vehicular access way, under private ownership and private maintenance, providing access to buildings containing residential dwelling units without direct access to an approved public street right-of-way, or a public right-of-way, however designated, dedicated or acquired, which provides vehicular access to adjacent properties. Alleys, parking lots, and private driveways within shopping centers, commercial areas, or industrial developments shall not be considered as streets.

*Street, public* means a public right-of-way, however designated, dedicated, or acquired, which provides vehicular access to adjacent properties.

*Street, thoroughfare* means a public street designed for heavy traffic and intended to serve as a traffic artery of considerable length and continuity throughout the community and so designated on the city's thoroughfare plan.

*Structure* means that which is built or constructed.

*Structure, principal* means the principal structure which fulfills the purpose for which the building plot is intended.

*Substantial improvements* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure as determined by a licensed appraiser, either (a) before the improvement is started, or (b) if the structure has been damaged and is being restored, valuation before the damage occurred. Substantial improvement is started when the first alteration of any structural part of the building commences.

*Temporary sign* means a sign not to exceed 18 inches by 24 inches in size which is intended for a limited period of display.

*Townhouse* means one of a group of no less than three nor more than 12 attached dwelling units constructed in a series or group of attached units with property lines separating such units.

*Trailer* means every vehicle, with or without motive power, other than a pole trailer or ranch trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

*Truck* means any motor vehicle designed, used or maintained primarily for transportation of more than nine persons or property.

*Truck stop* means a commercial/industrial use of property on one site for the refueling, maintenance and/or servicing of large over the road vehicles carrying large loads and which may have service activities for such vehicles and their drivers including but not limited to dispensing of motor fuels and petroleum products directly into motor vehicles, restaurants or cafes, overnight accommodation, shower or laundry facilities, truck service and overnight truck parking, truck scales, and parking area in association with the above services.

*Truck tractor* means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

*Used or occupied*, as applied to any land or buildings, shall be construed to include the words "intended, arranged or designed to be used or occupied."

*Visibility triangle* means a right angle triangle formed at an intersection by intersecting curb lines and the hypotenuse joining the curb lines. The horizontal plane of the triangle is formed by a motorist's view of oncoming traffic at the intersection of two or more public streets. The motorist's eye is assumed to be at a point fifteen (15) feet from the edge of the roadway. Traffic must be visible for a distance of ten (10) times the speed limit on either side of the vehicle parallel to the intersecting roadway. The vertical plane of the triangle is measured from 3 feet above the curb flow line to 10 feet above the curb flow line.

*Yard* means 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. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, and the depth of a front yard, the minimum horizontal distance between the building site and the lot line shall be used. A yard extends along the lot line and at right angles or radial to such lot line to a depth of width specified in the yard regulations of the zoning district in which such building lot is located.

*Yard, front* means a yard extending along the whole of the front lot line between the side lot lines, and being the minimum horizontal distance between the front lot line and the front of the principal building or any projections thereof other than stairs, unenclosed balconies, or unenclosed porches. In the case of the lots directly adjacent to the shoreline of Galveston Bay, the front yard shall be the yard extending along the whole of the lot line directly adjacent to the shoreline of Galveston Bay, and along the horizontal distance between the front lot line and the front of the principal building or any projections thereof, other than steps, unenclosed balconies, or unenclosed porches.

*Yard, rear* means a yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the principal building or any projections thereof other than steps, unenclosed balconies or unenclosed porches.

*Yard, side* means a yard extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building or projections thereof except steps and the side lot line.

*Zoning district map* means the map or maps incorporated into this chapter as a part hereof by reference thereto.

*Zoning permit* means a written instrument signed by the enforcing officer authorizing a use described in this chapter, in conformance with section 106-142 (Zoning Permits).

Words or phrases not defined in this section shall have their ordinarily accepted meaning as the context may imply.

#### **Sec. 106-2. Purpose.**

The zoning regulations and districts as herein established have been made in accordance with a comprehensive plan for the purpose of promoting health, safety, morals, and the general welfare of the city. They have been designed to lessen congestion in the streets, to secure safety from fire and panic and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and public facilities. They have been made to reasonable consideration, among other things, for the character of the district, its peculiar suitability for particular uses, and with a view of conserving the value of building and encouraging the most appropriate use of land throughout the city.

#### **Sec. 106-3. Relationship to comprehensive plan.**

It is the policy of the city that the enforcement, amendment, and administration of this chapter be accomplished with due consideration of the recommendations contained in the comprehensive plan as developed and amended from time to time by the planning and zoning commission and the city council of the city. The commission recognizes the comprehensive plan as the policy established by the city planning and zoning commission and the city council, respectively, to regulate land use and developments in accordance with the policies and purposes herein set forth.

#### **Sec. 106-4. Conflict with other requirements.**

It is not the intent of this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provision or other laws or ordinances, except as the same may be specifically repealed by the terms of this chapter, or with private restrictions placed upon property by covenant, deed easement, or other private agreement. Where the conditions imposed by any provisions of this chapter are either more or less restrictive than comparable conditions imposed by another ordinance, rule or regulation of the city or private agreement, the ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirements shall prevail.

**Sec. 106-5. Minimum requirements.**

When interpreting and applying the provisions of this chapter, such provisions shall be held to be the minimum requirements, for the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare.

**Sec. 106-6. Penalties for violations.**

- (a) Any person, firm or corporation in violation of any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not more than \$2,000.00. Each day such violation continues shall constitute a separate offense.
- (b) In case any building or structure erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of the general law or the terms of this chapter, the city, in addition to imposing the penalty above provided, may institute any appropriate action or proceedings in court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, or to prevent the occupancy of such violation, or to prevent the occupancy of such building, structure or land, to prevent the illegal act, conduct, business or use, in or about such land; and the definition of any violation of the terms of this chapter as a misdemeanor, shall not preclude the city from revoking the civil remedies given it by law in such cases, including collection or reasonable attorney fees and court costs, but same shall be cumulative of and in addition to the penalties prescribed for such violation.

**Secs. 106-7—106-30. Reserved.**

**ARTICLE II. ADMINISTRATION**

**DIVISION 1. GENERALLY**

**Secs. 106-31—106-45. Reserved.**

**DIVISION 2. BOARDS AND COMMISSIONS**

**Subdivision I. - Generally**

**Secs. 106-46—106-60. Reserved.**

**Subdivision II. Planning and Zoning Commission**

**Sec. 106-61. City planning and zoning commission.**

The city planning and zoning commission, created in accordance with Ordinance No. 681, dated June 17, 1963, of the City of La Porte, and authorized by the city Charter, Section 2.09(e)—(j) and 2.10(c), shall have the duties and responsibilities of the zoning commission provided for in V.T.C.A., Local Government Code § 211.007.

### **Sec. 106-62. Membership and structure.**

- (a) The city planning and zoning commission shall consist of nine members, to be appointed as follows: a member from each of the six council districts, a member for each of the two at-large positions (At-Large A and At-Large B), and a member for the mayoral seat, who shall be the chairman. All members are required to be resident citizens and qualified voters of the city. The term of the six members from the six council districts shall coincide with the term of office of the councilperson for the said district. The term of office for each at-large member shall coincide with the term of office of Councilperson At-Large A and Councilperson At-Large B, respectively. The term of office for the chairman shall coincide with the term of office of the mayor of the city. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant for any cause in the same manner as the original appointment was made.
- (b) Each district member who is appointed shall be a resident of the district from which he or she is appointed at the time of his appointment and continuously throughout his/her tenure in office.
- (c) The term of each member shall terminate on August 30 of the year in which the term expires, or when his/her successor has been appointed and qualified.
- (d) The planning and zoning commission shall elect a vice-chairman from its membership.

### **Sec. 106-63. General proceedings.**

The city planning and zoning commission shall adopt rules, regulations and bylaws to govern its proceedings; provided that such rules shall not be inconsistent with this section or the laws of the state. All meetings of the city planning and zoning commission shall be open to the public. Five members of the city planning and zoning commission shall constitute a quorum for the transaction of business.

### **Sec. 106-64. General powers and duties.**

The city planning and zoning commission shall have the following power and duties:

- (1) To cause studies to be made by city staff or other professionals which project plans for the improvement of the city, with a view toward its future development and extension, and to recommend to the city council all matters for the development and advancement of the city's facilities, layout and appearance, and to perform all duties imposed on the city planning and zoning commission by the statutes of the state.
- (2) To have plans and maps prepared by city staff or other professionals of the whole or any portion of the city and of land outside the city located within the extra territorial jurisdiction of the city, which, in the opinion of the city planning and zoning commission bears a relation to the planning of the city and to make changes in, additions to, and extensions of such plans or maps when it deems advisable.
- (3) To confer with and advise property owners pertaining to location and erection of structures in order to promote conformity to the overall city comprehensive plan.
- (4) To aid and assist the city council and city staff in the determination of sources of funds, and in the procuring of financial and other aid and assistance for the city from the state and federal governments and their agencies, for each and all of the purposes herein enumerated.
- (5) To assist all other municipal and governmental agencies, and especially the city council, in formulating and executing proper plans of municipal development.
- (6) To review and modify plans and recommend the location, plan, and extent of city alleyways, bridges, parkways, parks, playgrounds, airports, automobile parking places and other public properties, and of public utilities, including bus terminals, railroads, railroad depots, and terminals, whether publicly or privately owned, for water, lights, sanitation, sewage, sewage disposal, drainage, flood control, transportation, communication, marketing and shipping

facilities, power and other purposes, and for the removal, relocation, widening, extension, narrowing, vacation, abandonment or change of use of any of the foregoing public places, works, buildings, facilities or utilities.

- (7) To select and recommend to the city council, based on reports from city staff, routes or streets, avenues, and thoroughfares, and particularly to investigate and recommend the opening, widening, or abandonment of streets, avenues, thoroughfares, and alleys or the changing thereof to conform with the city's system, present and future, of thoroughfares, streets, avenues, alleyways, park and parkways.
- (8) To investigate, consider and report to the city council upon the layout or platting of new subdivisions and developments of the city or of property situated within the extraterritorial jurisdiction of the city and to approve all plans, plats, or replats of additions within the city limits, or with the extraterritorial jurisdiction of the city.
- (9) To recommend to the city council the approval or rejection of subdivisions or developments in accordance with the subdivision ordinances of the city.
- (10) To make rules, regulations and bylaws for its own government which shall conform as nearly as possible with those governing the city council, and such rules, regulations and bylaws shall be subject to approval by the city council. Such bylaws shall include, among other items, provisions for:
  - a. Regular and special meetings open to the public;
  - b. Records of its proceedings to be open for inspection by the public;
  - c. Reports to the city council and to the public, from time to time and annually; and
  - d. The holding of public hearings on its recommendations.
- (11) To recommend any change or modification to the city council which shall have the right to adopt by ordinance any recommended change.

#### **Sec. 106-65. Review of chapter.**

The planning and zoning commission is to conduct a regular comprehensive review of this chapter, together with the development ordinance of the city, the first review being six months from the date of adoption of this chapter, the second 12 months from the date of adoption, and thereafter an annual review by June 30<sup>th</sup> to determine whether the chapter has become deficient, obsolete, and inadequate for any reason including the following:

- (1) Defects in the original text.
- (2) Defects in the zoning map.
- (3) Deficiencies created by improper or lax administration and subsequent amendments to the original ordinance which are inconsistent, conflicting or ambiguous.
- (4) Inconsistency with state statutes or judicial decisions.

#### **Sec. 106-66. Hearing.**

- (a) The planning and zoning commission is to hear requests for proposed changes in classification filed by any interested party when such request is made in writing and accompanied by a filing fee.
- (b) All hearings on requests for amendments, changes in classification and review as set out in subsection (a) of this section shall be public hearings and shall conform to the notice requirements of V.T.C.A., Local Government Code § 211.007 and shall be conducted within 30 days after receipt of the request.

### **Sec. 106-67. Special conditional use procedures.**

- (a) Any use requiring a special conditional use permit as established in this chapter shall be reviewed by the city planning and zoning commission.
- (b) The city planning and zoning commission shall:
  - (1) Hear requests for proposed special conditional uses filed by any interested party when such request is made in writing, conforming to the requirements of division 6 of this article, and accompanied by a filing fee.
  - (2) All hearings on such requests shall conform to the public hearing procedures established for amendments under section 106-171 (Amendment Procedures) and in conformance with V.T.C.A., Local Government Code § 211.007, and shall be conducted within 30 days after receipt of the request.

### **Secs. 106-68—106-85. Reserved.**

#### Subdivision III. Board of Adjustment

### **Sec. 106-86. Organization.**

There is hereby created a board of adjustment consisting of five regular members and two alternates (alternate position 1 and alternate position 2) who are citizens of the city and who are not members of the city council or the city planning and zoning commission, each to be appointed by the city council for a term of two years and removable for cause by the appointing authority upon written charges and after a public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant for any cause, in the same manner as the original appointment was made. All cases to be heard by the zoning board of adjustment shall be heard by a minimum of four members.

The two alternate members are required to attend all meetings in the same manner as the regular members of the board. Alternate members shall not vote unless filling an absence of a regular member or the chairman. If a regular member or the chairman is absent from a meeting, alternate position 1 shall take his place. If a second regular member and/or the chairman is absent from a meeting, alternate position 2 shall take his place.

### **Sec. 106-87. Rules and meetings.**

The board of adjustment shall adopt rules of procedure in accordance with the provisions of this chapter. Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as at least four members of the board of adjustment 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 of adjustment shall be open to the public. The board of adjustment 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 city secretary and shall be a public record.

### **Sec. 106-88. Powers and duties.**

The board of adjustment shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the enforcement officer in the enforcement of this chapter.
- (2) To hear and decide special exceptions to the terms of this chapter upon which it is required to pass under section 106-191 (Special Exceptions).

- (3) To authorize upon appeal in specific cases such variance as defined in section 106-192 (Variance) from the terms of the chapter, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the chapter will result in unnecessary hardship, and so that the spirit of the chapter shall be observed.

### **Sec. 106-89. Appeals to board of adjustment.**

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department or board, of the city affected by any decision of the enforcement officer. Such appeal shall be taken within 30 days as provided by the rules of procedure of the board of adjustment, by filing with the enforcement officer from whom the appeal is taken specifying the grounds thereof. The enforcement officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all papers constituting the record upon which the action appealed from was taken.

- (1) *When appeals stay all proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the enforcement officer from whom the appeal is taken certifies to the board of adjustment after 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 immediate peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice of the enforcement officer from whom the appeal is taken and on due cause shown.
- (2) *Time for and notice of hearing of appeal.* 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 attorney.
- (3) *Action on appeal.* In exercising the powers set forth in section 106-88 (Powers and Duties), the board of adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the enforcement officer from whom the appeal is taken. The board must find the following in order to grant an appeal:
  - a. That there is a reasonable difference of interpretation as to the specific intent of the zoning regulations or zoning map, provided the interruption of the enforcement officer is a reasonable presumption and the zoning ordinance is unreasonable.
  - b. That the resulting interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated.
  - c. The decision of the board must be in the best interest of the community and consistent with the spirit and interest of the city's zoning laws and the comprehensive plan of the city.

**Secs. 106-90—106-120. Reserved.**

## **DIVISION 3. ENFORCEMENT**

### **Sec. 106-121. Completion under prior regulations.**

Nothing herein shall require any change in the plans, construction or designated use of a building for which a legal building permit has been issued prior to adoption, provided such construction shall have been started within six months following the date of issuance of such permit and work thereon is diligently prosecuted to completion.



### **Sec. 106-122. Completion under chapter.**

- (a) If the work described in any building permit which complies with this chapter has not begun within six months from the date of issuance thereof, said permit shall expire; it shall be cancelled by the enforcing officer, and written notice thereof shall be given to the persons affected.
- (b) If the work described in any building permit issued under the provisions of this chapter has not been commenced within six months, or if construction or work is suspended or abandoned for a period of six months at any time after work is commenced, said permits shall expire and be cancelled by the enforcing officer. Written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

### **Sec. 106-123. Enforcement officer.**

- (a) Except as otherwise provided in this chapter, the designated enforcement officer for the city shall administer and enforce this chapter, the inspection of premises as defined by this chapter and as specified in section 106-142 (Zoning Permits), and the issuing of situations for violations.
- (b) No zoning permit shall be issued by the enforcement officer unless the provisions of this chapter have been complied with.
- (c) No person shall erect or construct or proceed with the erection or construction of any building or structure nor add to, enlarge, move, improve, alter, repair, convert, extend or demolish any building or structure or cause the same to be done in any zoned district within the city without first applying for and obtaining a building permit therefor from the chief building official.
- (d) All applications for such permits shall be in accordance with the requirements of this chapter, the development ordinance of the city, and the building code of the city, except upon written order of the board of adjustment, no such building permit or zoning permit shall be issued for any building where such construction, addition, alteration or use thereof would be in violation of the provisions of this chapter.

### **Sec. 106-124. Powers and duties of the enforcement officer.**

- (a) The enforcement officer shall order work stopped on any building or structure being constructed in violation of this chapter and shall have revoked the building permit theretofore issued by notice in writing served on any person owning such property or their agent or any employee, or any officer of any corporation or on any person engaged in the doing or causing of such work to be done, and any such person shall forthwith stop and cause to be stopped such work until authorized by the enforcement officer to recommence and proceed with the work or upon issuance of a building permit shall be posted on work being done in violation of this chapter.
- (b) Whenever any building or portion thereof is being used or occupied contrary to the provisions of this chapter, the enforcement officer shall order such use or occupancy to be discontinued, and such person shall vacate such building or portion thereof within ten days after receipt of such notice or make the building or portion thereof comply with the requirements of this chapter. Any violation of this provision is subject to a daily penalty as specified in section 106-6 (Penalties for Violations).

**Secs. 106-125—106-140. Reserved.**

#### **DIVISION 4. PERMITS**

##### **Sec. 106-141. Building permit application.**

Every application for a building permit shall be accompanied by a certified site plan when required and in compliance with Article II, Division 8 (Site Plans). A record of the original copy of such application and plans shall be kept in the office of the enforcing officer and a duplicate copy of the approved plan shall be at the building at all times during construction.

##### **Sec. 106-142. Zoning permits.**

In order to ensure that all new construction and the use of all existing and new structures and the use of land shall comply with the terms of these regulations, a zoning permit shall be required in accordance with the rules in section 106-143 (Application for zoning permit).

##### **Sec. 106-143. Application for zoning permit.**

An application for a zoning permit shall be filed in the office of the enforcing officer on forms provided by the enforcing officer. Upon approval, a zoning permit shall be issued stating the proposed use of a building or premises complies with the provisions of this chapter. A permanent record of all such permits shall be kept on file in the office of the enforcing officer, and copies shall be furnished, on request, to any person having proprietary or tenancy interest in the building affected.

##### **Sec. 106-144. Zoning permit to establish new use or change of use of property.**

No vacant land shall be occupied or used, except for agricultural purposes, and no building hereafter erected, reconstructed, altered, or enlarged, shall be occupied or used nor shall any building have a change in its use or occupancy until a zoning permit shall have been issued by the enforcing officer stating that the building or proposed use of the building or premises complies with the provisions of this chapter.

##### **Sec. 106-145. Zoning permit and building permit.**

A zoning permit shall be applied for coincident with the application for building permit; it shall be issued within ten days after the erection, addition, or alteration of such building or use has been completed in conformity with the provisions hereof, as determined by a final inspection. The enforcement officer shall not issue a zoning permit for any use or structure not in conformance with this chapter or any other ordinance of the city in accordance with state law.

##### **Sec. 106-146. Zoning permit for nonconforming uses, lots and structures.**

A zoning permit shall not be required but may be applied for and shall be issued for nonconforming uses, lots, or structures. However, in the event of any subsequent application or building permit or of any change in occupancy the enforcing officer may require other evidence that the nonconforming use, lot, or structure legally existed prior to the effective date such property became subject to the terms of these regulations.

**Sec. 106-147. Certificate of existing conforming uses.**

A zoning permit shall not be required but may be applied for and shall be issued for any existing use of land or structure which conforms to the requirements of these regulations.

**Sec. 106-148. Utility connections; prior zoning permit approval required.**

For all new construction and the use of all existing and new structures, no public utilities under the city's direction and control shall be connected to such building or structure until the zoning permit approval required by this chapter has been granted.

**Sec. 106-149. Application fees.**

All written requests shall be accompanied by a filing fee sufficient to offset all costs of publication and notice required by statute or ordinance but in no event less than the amount established by the city council and listed in appendix A.

**Sec. 106-150. Bond and Insurance Requirements.**

- (a) Each entity seeking to construct a multi-family development is required to execute and file with the city a performance and/or payment bond, an irrevocable letter of credit, or alternatively, any other method approved by the Planning and Zoning Commission, in the following amounts:
  - (1) For developments of less than 100 units, \$500,000.
  - (2) For developments of 100 units or more, \$1,000,000.
- (b) The execution of a bond, letter of credit or other approved financial guarantee payable to the City of La Porte shall serve as a guarantee of proper compliance with applicable maintenance and regulatory standards established under this Code or other applicable law; the security afforded to the City by the filing of a bond, ~~or~~ letter of credit, or other approved financial guarantee shall include, but not be limited to, necessary expenses incurred as part of demolition of buildings that have fallen into disrepair, and other remedial measures as may be necessary to maintain the health, safety and welfare of the tenants and the integrity of the surrounding neighborhood.
- (c) Each bond, ~~or~~ irrevocable letter of credit or other approved financial guarantee shall be renewable every five years, with evidence of renewal to be furnished to the city, throughout the life of the structure/s.
- (d) Failure of the owner of a multi-family development to obtain and keep current the bond, ~~or~~ letter of credit or other approved financial guarantee shall be cause for revocation of the owner's certificate of occupancy and/or zoning permit.
- (e) Each entity seeking to construct a multi-family development is also required to purchase and file with the city proof of insurance for comprehensive general liability policy naming the City of La Porte as an additional named insured in the amount of \$1,000,000.00 for the life of the structures of the apartment complex and/or the apartment complex itself.

**Secs. 106-151—106-170. Reserved.**

## **DIVISION 5. AMENDMENTS**

### **Sec. 106-171. Amendment procedures.**

The city council may from time to time, on its own motion, the motion of the planning and zoning commission, or on petition, amend, supplement, change, modify or repeal the regulations, restrictions, and boundaries herein established.

- (1) *Public hearing before the city planning and zoning commission.* Before taking any action on any proposed amendment, supplement, change, or modification, the city council shall submit the same to the city planning and zoning commission which shall make a preliminary report and hold a public hearing thereon before submitting its final report to the city council.
- (2) *Notice of public hearing before city planning and zoning commission.*
  - a. Written notice of all public hearings before the city planning and zoning commission on proposed changes in classification shall be sent to owners of real property lying within 200 feet of the property on which the change in classification is proposed as well as the La Porte Independent School District, such notice to be given not less than ten days before the date set for hearing, to all owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the city post office. At least 15 days notice of the time and place of such hearing shall be published once in a newspaper of general circulation in the city.
  - b. Requirements for public notice by sign posting:
    1. Public notice for procedures requiring public notice by sign posting shall be provided by the city at least 15 days before the public hearing.
    2. The applicant shall place public notice sign on the property within 20 feet of the abutting street.
    3. The sign shall be clearly visible, readable, and not to create hazard to traffic on the public right-of-way abutting the property.
    4. Public notice sign shall include the date, time, place, and purpose of public hearing.
    5. The applicant must return the sign to the city within ten days after the appeal period for the public hearing has ended.
    6. The erection of this sign shall not require a permit from the city.
- (3) *Publication of notice.* In the event a public hearing shall be held by the city planning and zoning commission in regard to a change of this chapter not involving particular property but involving a change in the chapter generally, notice of such hearing shall be given by publication once in a newspaper of general circulation in the city stating the time and place of such hearing, which time shall not be earlier than 15 days from the day of such publication.
- (4) *Submission of findings and recommendations to city council.* The city planning and zoning commission shall forward its written findings of fact and recommendations to city council within 15 days of the close of the hearings.
- (5) *Public hearing before city council.*
  - a. Upon receipt of the written recommendations from the planning and zoning commission, a public hearing shall be held by the city council before adopting any proposed amendment, supplement, change, modification or repeal of the regulations, restrictions, and boundaries herein established.

- b. Notice of such hearing shall be given by publication once in a newspaper of general circulation on the city stating the time and place of such hearing, which time shall not be earlier than 15 days from the day of such publication.
- (6) *Council actions.* The city council shall act upon such motion or petition within 30 days from the date the final report of the city planning and zoning commission was submitted to the city council.
- (7) *Protests.*
- a. In case of a protest against any such amendment, supplement, change, or repeal of the regulations, restrictions, and boundaries herein established, a written protest filed with the enforcement officer and signed by the owners of 20 percent or more of either:
    - 1. The area of lots or land covered by the proposed change; or
    - 2. The area of lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.Such amendment, supplement, change, modification, or repeal shall not become effective except by the favorable vote of three-fourths of all the members of the city council.
    - 3. Streets and alleys shall be included when computing the area of land from which a protest may be filed.
- (8) *Vote to overrule.* The affirmative vote of at least three-fourths of the city council is required to overrule a recommendation of the city planning and zoning commission that a proposed change to this chapter or boundary be denied.

**Secs. 106-172—106-190. Reserved.**

## **DIVISION 6. SPECIAL EXCEPTIONS AND VARIANCES**

### **Sec. 106-191. Special exceptions.**

- (a) *Application for special exceptions.* All applications for special exception to the terms of this chapter shall be in writing and shall specify the facts involved, the relief desired, and the grounds therefor. Each such application shall be filed, along with the appropriate fees, with the enforcement officer who after investigation shall transmit such application together with his report to the board of adjustment within ten days after the filing of the application with the enforcement officer.
- (b) *Special exceptions to be reviewed; finding of facts.* The term "special exception" shall mean a deviation from the requirements of this chapter, specifically enumerated herein, which shall be granted only in the following instances, and then only when the board finds that such special exception will not adversely affect the value and use of adjacent or neighboring property or be contrary to the best public interest:
- (1) To reconstruct, enlarge or extend a building occupied by a nonconforming use on the lot or tract occupied by such building, provided that the reconstruction, extension, or enlargement does not prevent the return of the property to a conforming use.
  - (2) To deviate yard requirements in the following circumstances:
    - a. Any exception from the front yard requirements where the actual front yard setback of any abutting lot does not meet the front yard requirement.
    - b. A rear yard exception where the actual rear yard setback of any four or more lots in the same block does not meet the rear yard requirements of these regulations.
    - c. A yard exception on corner lots.

- d. An exception where the existing front yard setbacks of the various lots in the same block are not uniform, so that any one of the existing front yard setbacks shall, for buildings hereafter constructed or extended, be the required minimum front yard depth.
- (3) To waive or reduce off-street parking and loading requirements when the board finds the same are unnecessary for the proposed use of the building or structure for which the special exception request applies.
- (4) To deviate from the minimum lot size or width requirements for property within the large lot district, where the board finds that all of the following conditions are shown:
- a. That one or more lots located in the same block as the subject property are not uniform in terms of shape and/or size so that any further subdivision of the subject property cannot be in accordance with the regulations governing the district;
  - b. It can be demonstrated that the subdivision will not circumvent the spirit of the district regulations, or particularly, the rural character of the district; and,
  - c. Granting the special exception will not be injurious to the value or enjoyment of adjacent properties within the district.
- (c) *Hearings on applications for special exceptions.* The board of adjustment shall fix a reasonable time for the hearing of all applications for special exceptions, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time as specified in section 106-194 (Notice of public hearings before the board of adjustments). Upon the hearing any party may appear in person or by agent or by attorney.

#### **Sec. 106-192. Variance.**

- (a) *Application for variances.* All applications for a variance from the terms of this chapter shall be in writing and shall specify the facts involved, the relief desired, and the grounds thereof. Each such application shall be filed with the enforcement officer who after investigation shall transmit such application together with his report to the board of adjustment within ten days after the filing of the application with the enforcement officer.
- (b) *Findings of fact/definition of hardship.*
- (1) The term "variance" shall mean a deviation from the literal provisions of this chapter which is granted by the board when strict conformity to this chapter would cause an unnecessary hardship because of the circumstances unique to the property on which the variance is granted.
  - (2) Except as otherwise prohibited, the board is empowered to authorize a variance from a requirement of this chapter when the board finds that all of the following conditions have been met:
    - a. That the granting of the variance will not be contrary to the public interest;
    - b. That literal enforcement of this chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation unique to the specific piece of property in question. "Unnecessary hardship" shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's own actions; and
    - c. That by granting the variance, the spirit of this chapter will be observed.
  - (3) The applicant shall have the burden of proving to the board that the foregoing conditions have been met.
- (c) *Use variance prohibited.* No variance shall be granted to permit a use in a zoning district in which that use is prohibited.

- (d) *Hearings on applications for variances.* The board of adjustment shall fix a reasonable time for the hearing of all applications for variances, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time, as specified in section 106-194 (Notice of public hearings before the board of adjustments). Upon the hearing any party may appear in person or by agent or by attorney.

**Sec. 106-193. Additional conditions.**

The board is empowered to impose upon any variance or special exception any condition reasonably necessary to protect the public interest and community welfare.

**Sec. 106-194. Notice of public hearings before the board of adjustment.**

- (a) The notice of public hearings provided for in this section shall be given by publication once in a newspaper of general circulation in the city stating the time and place of such hearings, which shall not be earlier than ten days from the date of such publication, and in addition thereto, the board of adjustment shall mail notices of such hearing to the petitioner and to all owners of property lying within 200 feet of any point of the lot or portion thereof, on which a special exception or variance is desired, and to all other persons deemed by the board of adjustment to be affected thereby; such owners and persons shall be determined according to the last approved tax roll of the city. Such notice may be served by depositing addressed and postage paid, in the city post office.
- (b) Requirements for public notice by sign posting:
- (1) Public notice for procedures requiring public notice by sign posting shall be provided by the city at least ten days before the public hearing.
  - (2) The applicant shall place public notice sign on the property within 20 feet of the abutting street.
  - (3) The sign shall be clearly visible, readable, and not to create hazard to traffic on the public right-of-way abutting the property.
  - (4) Public notice sign shall include the date, time, place, and purpose of public hearing.
  - (5) The applicant must return the sign to the city within ten days after the appeal period for the public hearing has ended.
  - (6) The erection of this sign shall not require a permit from the city.

**Sec. 106-195. Vote necessary for decision of board of adjustment.**

The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the enforcement officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variance in this chapter.

**Sec. 106-196. Appeals from 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 city may present to a court of record a petition for a writ of certiorari, as provided by V.T.C.A., Local Government Code § 211.011, 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 days after the filing of the decision in the office of the board of adjustment.

### **Sec. 106-197. Revocation or modification.**

- (a) The board shall only consider a revocation or modification based on a written report from the enforcement officer stating findings of fact. A variance or special exception may be revoked or modified for any of the following reasons:
  - (1) That a variance or special exception was obtained or extended by fraud or deception.
  - (2) That one or more of the conditions imposed by the board in granting such variance or special exception has not been complied with or has been violated.
- (b) As required in section 106-195 (Vote necessary for decision of board of adjustments), four concurring votes are necessary for revocation or modification.

### **Sec. 106-198. Reapplication.**

No application for a variance, special exception, or appeal which has been denied shall be filed again earlier than one year from the date of original denial.

### **Sec. 106-199. Validity.**

If an application is granted by the board, all permits necessary for the prosecution of the work must be obtained within 90 days and construction completed within the time established by the building code. All previous applications approved by the board for which building permits have not been issued shall be valid only if a building permit is obtained within 90 days after receipt of a written notice of the requirements of this section and construction must be completed within the time limits set forth in the building code. Written notice shall be considered received on the date such notice is mailed to the person, firm or the address of such person, firm or corporation as the same shall appear in the records of the city secretary relating to the granting of such application.

### **Secs. 106-200—106-215. Reserved.**

## **DIVISION 7. CONDITIONAL USE PERMITS**

### **Sec. 106-216. General conditions for all conditional uses in all zoning districts.**

- (a) A special conditional use permit may be granted by the city council for the construction of a building and/or the establishment of a use as described in this or any other section, upon a tract of land in single ownership or under unified control.
- (b) Upon application for a special conditional use permit and submission of a general plan, major development site plan, minor development site plan, or preliminary plat (as the case may be), the city planning and zoning commission shall conduct a public hearing, duly advertised and with proper notice being given to all parties affected, as provided in section 106-171 (Amendment procedures). The general site plan, major development site plan, minor development site plan, or preliminary plat shall be drawn to scale and shall show the arrangement of the project in detail, including parking facilities, location of buildings, building uses to be permitted, means of ingress and egress, and other pertinent information, together with the information required by the development ordinance of the city.
- (c) After public hearing and upon recommendation of the city planning and zoning commission, the city council may modify the final planned unit development plan and issue a special conditional use permit containing such requirements and safeguards as are necessary to protect adjoining property.



- (d) Failure to begin construction within one year after issuance or as scheduled under the terms of a special conditional use permit shall void the permit as approved, except upon an extension of time granted after application to the planning and zoning commission.
- (e) If construction is terminated after the completion of any stage and there is ample evidence that further development is not contemplated, the division establishing such special conditional use permit may be rescinded by the city council, upon its own motion or upon the recommendation of the planning and zoning commission of the city, and the previous zoning of the entire tract shall be in full effect on the portion which is undeveloped.
- (f) Every special conditional use permit granted as provided herein shall be considered as an amendment to the zoning ordinance as applicable to such property.

#### **Sec. 106-217. Conditions for approval.**

A special conditional use permit shall be issued only if all of the following conditions have been found:

- (1) That the specific use will be compatible with and not injurious to the use and enjoyment of other property, nor significantly diminish or impair property values within the immediate vicinity.
- (2) That the conditions placed on such use as specified in each district have been met by the applicant.
- (3) That the applicant has agreed to meet any additional conditions imposed, based on specific site constraints, and necessary to protect the public interest and welfare of the community.

#### **Sec. 106-218. Amendments.**

The procedure for amendments for a special conditional use permit shall be the same as for a new application.

#### **Secs. 106-219—106-235. Reserved.**

### **DIVISION 8. SITE PLAN**

#### **Sec. 106-236. Certified site plan required.**

Any person desiring to improve property shall submit to the city planning department a certified site plan of said premises and information giving the location and dimensions of existing and proposed buildings and parking lots, location of easements crossing the property, any and all encroachments, and other information which may be necessary to ensure conformance to this chapter. Approved site plan is valid for 1-year from the date of approval by the City. A certified site plan shall not be required when:

- (1) Residential construction is only for an accessory building of less than 200 square feet;
- (2) Residential construction is on lots or tracts that have been surveyed by a registered surveyor, and have all property corners permanently marked and visible; or
- (3) Residential construction consists of the modification of an existing residential structure.
- (4) Small awning and routine maintenance, i.e. parking lot, pavement, & building addition of less than 200 s.f. If approved by Director of Planning and Development after review of a previous certified site plan and they find no indication that the improvement would violate the provisions of this chapter.

- (5) A previously approved site plan that is older than one year from the date of approval by the City, a letter with seal and signature from the engineer of record would be required to ensure compliance with existing regulations.
- (6) Scope of commercial / industrial construction consists of modification of an existing internal structure only.

**Sec. 106-237. Conformance with thoroughfare plan.**

All buildings shall be placed in such a manner that they will not obstruct future streets which may be constructed using existing rights-of-way or dedicated rights-of-way in accordance with the adopted thoroughfare plan of the city.

**Sec. 106-238. One principal building allowed per lot.**

Not more than one principal building shall be located in R-1 zone on any one lot. The words "principal building" shall be given their common, ordinary meaning; in case of doubt or on any question of interpretation the decision of the enforcement officer shall be final, subject to the right of appeal to the board of adjustment.

**Sec. 106-239. Application of yard and parking requirements to thru lots.**

On a thru lot within residential districts (a lot fronting on two substantially parallel streets), the rear lot line shall be defined as the major street, where access is prohibited, and the minimum rear yard setback shall be 20 feet for applying the yard and parking regulations of this chapter.

**Sec. 106-240. Minimum building setback.**

Except in a planned unit development and Main Street Overlay, No building shall be located closer than ten feet from any existing or proposed street right-of-way.

**Secs. 106-241—106-260. Reserved.**

***DIVISION 9. NONCONFORMING BUILDINGS, STRUCTURES AND USES***

**Sec. 106-261. Generally.**

The general public, the planning and zoning commission and the board of adjustment are directed to take note that nonconformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, wherever and whenever possible, except when necessary to preserve property rights, specific structures, lots, or uses established prior to the date these regulations became effective as to the property in question, and when necessary to promote the general welfare and to protect the character of surrounding property. It shall be the responsibility of the planning and zoning commission and the board of adjustment to assist the city council in achieving this goal by advising the city council of their recommendations thereon. As necessary, the city council may from time to time on its own motion or upon cause presented by interested property owners inquire into the existence, continuation or maintenance of any nonconforming use within the city.

- (1) *Conforming use does not change to nonconforming use if adjacent property subsequently changes zoning classification.* A use that conforms to the zoning regulations on the effective date of this zoning ordinance at the time of initial development of the site shall not subsequently be deemed a nonconforming use solely because the use changes on an adjoining property.

- (2) *Accessory use of structure.* No structure that is accessory to a principal nonconforming use or a nonconforming structure shall continue after such principal use or structure has been terminated, removed or otherwise brought into compliance, unless it complies with all of the regulations of the district in which it is located.

## **Sec. 106-262. Nonconforming structures.**

- (a) *Limitation on regulation.* No structure, otherwise in accordance with the provisions of these regulations or an amendment hereto, shall be rendered or be deemed a nonconforming structure solely for a failure to comply with provisions relating to Article V, Division 2, Accessory Buildings, Uses, and Equipment, of this chapter.
- (b) *Continuance of nonconforming structures.* Subject to all limitations herein set forth, any nonconforming structure may be occupied and operated and maintained in a state of good repair, but no nonconforming structure shall be enlarged unless the enlargement is made in accordance with the provisions of section 106-262(g) (Enlargement to non-conforming structure) of this chapter.
- (c) *Accidental damage to structure.* If a building occupied by nonconforming uses is destroyed by fire or the elements, it may not be reconstructed or rebuilt unless it conforms with the provisions of this chapter. In the case of partial destruction by fire or other causes, not exceeding 50 percent of its value, as determined by a licensed appraiser, the enforcing officer of the city may issue a permit for reconstruction. If greater than 50 percent and less than total, the board may grant as a special exception a permit for repairs but not for enlargement or reconstruction of the building.
- (d) *Obsolescence of structure.* The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure becomes substandard under the codes and ordinances of the city, and the cost of placing such structure in lawful compliance with the applicable ordinances exceeds 50 percent of the replacement cost of such structure, as determined by a licensed appraiser, on the date that the enforcing officer determines that such structure is obsolete or substandard. The enforcement officer of the city shall notify the owner of such nonconforming structure, as shown on the certified tax rolls of the city, as to the date of termination of the right to operate and maintain such nonconforming structure, and as to the procedure to be followed to bring such structure into compliance with this chapter, or other codes and ordinances of the city. The burden of proof in showing that the structure's repair cost does not exceed 50 percent of the replacement cost of such structure rests upon the owner of such structure. The owner may appeal to the ZBOA within 60 days of the City notification.
- (e) *Determination of replacement cost.* In determining the replacement cost of any nonconforming structure, the cost of land or any factors other than the nonconforming structure itself, shall not be included.
- (f) *Repairs and alterations.* Repairs and alterations may be made to a nonconforming building or structure; provided, that the footprint of the building is not enlarged, unless the building is changed to a conforming use. No additional dwelling units shall be added where the nonconforming use results from there being more dwelling units on the lot than is permissible in the district in which the building is located.
- (g) *Enlargement to nonconforming structure.* A structure that is nonconforming may be altered, remodeled or otherwise improved, but not enlarged, unless the board of adjustment determines ((pursuant to section 106-191 (Special exceptions)) that such enlargement will not result in an increase in the degree of nonconformity with the regulations and development standards of the district in which it is located.
  - (1) *Submission of schedule to eliminate nonconformity.* The applicant shall present to the board of adjustment a schedule for elimination or substantial reduction of the nonconformity over a reasonable period of time not to exceed 20 years, or setting forth the reasons why such action is not reasonably possible.

- (2) *Approval of schedule by board of adjustment.* The board of adjustment shall review and make any revisions found necessary to ensure that priority is given to elimination or reduction of those nonconformities that have significant adverse impacts on surrounding properties, and which can reasonably be ameliorated taking into account the effect of the configuration of the lot and the location of existing structures and the cost of eliminating or substantially reducing such nonconformities.
- (h) *Abandonment of nonconforming use or nonconforming structure.*
- (1) A nonconforming use shall be deemed abandoned when the use ceases to be used for the nonconformity for a period of 180 consecutive calendar days. The nonconforming use, when abandoned, shall not resume.
  - (2) A nonconforming structure shall be deemed abandoned when the structure ceases to be used for the nonconformity for a period of 180 consecutive calendar days. The use of the nonconforming structure, when abandoned, shall not resume.
  - (3) When it has been determined by the enforcement officer that a nonconforming use or structure has been abandoned, notification shall be made by certified mail to the owner (as shown on the certified tax rolls) of the abandoned nonconforming use or structure. The owner or his representative seeking to maintain such nonconforming use or structure may appeal the enforcement officer's decision to the board of adjustment. The property owner or his representative seeking to maintain the existing nonconforming structure shall have the burden of proving to the board of adjustment in such appeal that the structure or use has not been abandoned for a period of 180 consecutive calendar days, and that the owner or his representative did not intend to abandon the nonconforming structure or use during said 180-day period.

#### **Sec. 106-263. Nonconforming uses.**

- (a) *Continuance of nonconforming uses subject to this chapter.* Subject to the provisions of this chapter relating to extended useful life of nonconforming uses, any nonconforming use may be continued in operation on the same land area and on the same floor in a structure or structures which were occupied by the nonconforming use on the effective date of this ordinance, provided that such land area or floor area shall not be increased, except that such limitation shall not apply for farming uses.
- (b) *Changing a nonconforming use.* Any nonconforming use or structure may be changed to a use conforming to the regulations established in this chapter for the district in which the nonconforming use or structure is located, or the nonconforming use or structure may be changed to a use or structure more conforming to the zoning district in which the nonconforming use or structure is located. For purposes of this section, the term "more conforming to the zoning district in which the nonconforming use or structure is located" shall mean a less intense use, (per the Standard Industrial Classification Code). Whether or not a use is more conforming to the zoning district in which the nonconforming use or structure is located is a question to be determined by the planning director, subject to appeal as provided within this article. A nonconforming use or structure so changed shall not thereafter be returned to a nonconforming use or structure.

#### **Sec. 106-264. Notification of nonconforming status.**

Owners and occupants of property subject to extended useful life and/or termination of nonconforming status pursuant to this division shall be notified of such status by the planning director of the city. The planning director shall mail written notice, prior to or concurrently with the notice of public hearing pursuant to section 106-266 (Extended useful life and termination), to all persons having an interest in property (as shown by the tax rolls of the city) where the property is located and to the occupant of each nonconforming use in the city by regular and by certified mail, return receipt requested. The notice shall state that the use is subject to a determination of its extended useful life and termination requirements and shall specify the procedures for obtaining an exemption from the extended useful life

and termination requirements of sections 106-265 (Application for exemption from extended useful life request) and 106-266 (Extended useful life and termination) .

### **Sec. 106-265. Application for exemption from extended useful life requirement.**

- (a) *Application requirements.* An owner or qualified occupant of a nonconforming use or structure may seek an exemption from the extended useful life and termination requirements of section 106-266 (Extended useful life and termination). The grounds upon which such an exemption may be sought shall be either: (i) that the nonconforming use or structure has no adverse impact upon allowed land uses in the district in which it is located; or (ii) that the nonconforming use or structure can be made compatible with such surrounding uses upon compliance with specified conditions. Such owner or qualified occupant shall submit an application to the planning director, on a form provided by the planning director, no less than ten working days prior to the date scheduled for the public hearing being conducted pursuant to section 106-266 (Extended useful life and termination).
- (b) *Board review and decision.* The board of adjustment shall hold the public hearing pursuant to section 106-266(Extended useful life and termination) , following the procedures for hearings before the zoning board of adjustment established in the zoning ordinance; and shall consider the application for an exemption from the extended useful life and termination requirements of section 106-266 (Extended useful life and termination). The owner or qualified occupant shall have the burden of proving the grounds for the exemption sought. Upon conclusion of the hearing, if the board of adjustment finds that the use of the property has no material adverse impact upon the land uses permitted in the district in which it is located or can be made reasonably compatible with such uses through the imposition of specified conditions, it shall exempt the nonconforming use from the extended useful life and termination requirements of section 106-266 (Extended useful life and termination), and impose such conditions as it finds necessary to ensure reasonable compatibility with surrounding properties and uses, including, but not limited to: (i) required improvement of (or modifications to) existing improvements on the property; or (ii) limitations on hours or nature of operations; and (iii) a specified term of years for which the exemption shall be granted.

If the board of adjustment does not authorize an exemption from the extended useful life and termination requirements of section 106-266 (Extended useful life and termination), it shall after considering applicable law, information presented at the hearing and other factors deemed relevant by it, establish an extended useful life period for the nonconforming use in accordance with section 106-266(Extended useful life and termination) .

- (c) *Appeal.* Any person aggrieved by the decision of the board of adjustment or a taxpayer or an officer, department, board or bureau of the city, may appeal the decision in accordance with V.T.C.A., Local Government Code § 211.011. Unless properly appealed within ten days of the date the decision is filed in the board of adjustment's office, the decision of the board of adjustment is final and incontestable.

### **Sec. 106-266. Extended useful life and termination.**

- (a) *Extended useful life of specific nonconforming uses.* Nonconforming uses shall be terminated at the end of an extended useful life period established by the board of adjustment in accordance with this section. The extended useful life period to be established shall not be less than five years, nor more than 20 years from the effective date of the order of the board of adjustment, unless the Board determines on the basis of expert appraisal testimony that a greater extended useful life period is necessary to enable the property owner to recoup the current remaining useful investment in the property made prior to the date of the order of the board of adjustment establishing the extended useful life period. The board of adjustment shall hold a public hearing, as required by subsection (b) below, to establish an extended useful life period or to consider an application by the nonconforming user for exemption from the extended useful life and termination requirements set forth in this section 106-266 (Extended useful life and termination). If the board of adjustment grants an exemption, the use shall be known as an "exempted nonconforming use." If the board of adjustment does not grant

an exemption, it shall establish an extended useful life period subsequent to the hearing procedure established in subsection (b). If an application for exemption from extended useful life is not submitted, the board of adjustment shall establish an extended useful life period pursuant to subsection (c).

(b) *Public hearing.*

- (1) The board of adjustment shall hold a public hearing to establish an extended useful life for each nonconforming use subject to notification pursuant to section 106-264 (Notification of nonconforming status), or to consider an application for an exemption from the extended useful life and termination requirements of this section as allowed in section 106-265 (Application for exemption from extended useful life requirement) and this section, but subject to the following notification requirements:
    - a. Written notice of the time and place of a public hearing, by certified mail, return receipt requested and postage prepaid, to the owner and occupant of the nonconforming use at least 30 days prior to the date of such public hearing;
    - b. Publication at least 30 days prior to the date of public hearing of a notice of the time and place of the hearing in at least one newspaper of general circulation in the city; and
    - c. Mailing of the notice of public hearing at least ~~30~~ 60 days prior to the date of the public hearing to property owners within 200 feet, as determined pursuant to section 106-89 (Appeals to board of adjustment), of the lot line of the land subject to the application, inclusive of streets, alleys and rights-of-way, and to civic associations, whose boundaries are wholly or partly within said 200 foot area.
  - (2) Upon notification of the time and place of the public hearing, the owner or occupant of the nonconforming use to be subject to the extended useful life requirements of this ordinance may apply to the planning director for an exemption from extended useful life and termination pursuant to section 106-265 (Application for exemption from extended useful life requirement) and include written information and documentation supporting a claim for an exemption from any extended useful life period. In the event the board of adjustment does not grant the exemption applied for, it shall establish an extended useful life period based on (i) applicable law, (ii) evidence submitted with the application, (iii) evidence presented at the hearing and (iv) other factors consistent with the purpose of this zoning ordinance to allow the owner to recoup the current remaining useful investment in the use made prior to the effective date of the order of the board of adjustment establishing the extended useful life period, specifically including but not limited to the testimony of experts in the field of property appraisal. The owner's or applicant's failure to submit evidence to support an extended useful life period shall be considered a waiver by the owner or applicant of any right to contest at the board of adjustment the length of any extended useful life period that the board of adjustment establishes.
- (c) *Extended useful life period.* In the event the owner or qualified occupant does not apply for exemption from an extended useful life period, the board of adjustment, at the public hearing, shall establish an extended useful life period based on (i) applicable law, (ii) evidence presented at the public hearing and (iii) other factors deemed relevant by the board of adjustment, to allow the owner or qualified applicant to recoup the current remaining useful investment in the use made prior to the effective date of this zoning ordinance, specifically including but not limited to testimony of experts in the field of property appraisal. The extended useful life shall not be for less than five years nor more than 20 years from the effective date of the useful life period, unless the board determines upon the basis of testimony from experts in the field of property appraisal presented at the public hearing, that an extension of the useful life period is necessary to enable the property owner to recoup the current remaining useful investment in the property made prior to the date of the order of the board of adjustment establishing the extended useful life period.
- (d) *End of extended useful life period.* At the end of the extended useful life period established by the board of adjustment for a particular use, the use shall terminate.

## **Sec. 106-267. Revocation of nonconforming use status.**

Upon the recommendation of the planning director or a motion of the board of adjustment, the board of adjustment shall undertake a review of (i) any nonconforming uses; or (ii) any exempted nonconforming uses established pursuant to section 106-265 (Application for exemption from extended useful life requirement) or 106-266 (Extended useful life and termination) and, after a public hearing and investigation as to the particular use in question, may require the revocation of the use status and the extended useful life period or may order the termination of such use. For purposes of this section 106-267 (Revocation of nonconforming use status), a use described in (i) or (ii) above, shall be herein sometimes referred to as a "revocable use."

- (1) *Initiation of revocation procedure.* The board of adjustment shall undertake a review of any revocable use only upon: (i) its own motion, upon a determination that a reasonable probability of one or more grounds for termination under section 106-267(3) (Required findings and standards in board-determination of revocation) exist; or (ii) a report from the planning director recommending revocation of such revocable use, which shall be based upon a determination that a reasonable probability of one or more grounds for termination under 106-267(3) (Required findings and standards in board-determination of revocation) exist for such recommendation.
- (2) *Board notice, review and decision.* Upon its own motion, or upon receipt of the planning director's report recommending the revocation of the status of the revocable use, the board of adjustment shall hold a public hearing to consider revocation of a revocable use. Prior to holding such hearing, the board of adjustment shall provide public notice as follows:
  - a. Written notice of the time and place of a public hearing, by certified mail, return receipt requested and postage prepaid, to all persons having an interest in the property as shown by the certified tax rolls of the city and to the occupant or occupants of the property containing said revocable use at least 30 days prior to the date of such public hearing;
  - b. Publication at least 30 days prior to the public hearing of a notice of the time and place of the hearing in at least one newspaper of general circulation in the city; and
  - c. Mailing of the notice of public hearing at least 30 days prior to the date of the public hearing to property owners within 200 feet as determined pursuant to section 106-89 (Appeals to board of adjustment), of the lot line of the land subject to the application, inclusive of streets, alleys and rights-of-way, and to civic associations registered with the planning director, whose boundaries are wholly or partly within the 200 foot area.

Upon the conclusion of the public hearing, the board of adjustment shall determine, on the basis of written findings of fact and conclusions, whether the status of the revocable use should be revoked and the use amortized or terminated. In making its determination whether or not to revoke, the board of adjustment shall consider the standards set forth in section 106-267(3) (Required findings and standards in board-determination of revocation), and if it determines to revoke, it shall, in accordance with applicable law, after considering evidence presented at the hearing and other factors consistent with the purpose of this zoning ordinance, establish an extended useful life period for the owner to recoup the current remaining useful investment in the use made by the owner prior to the time the use became nonconforming, in accordance with the procedures set forth above. The revocable use shall terminate at the end of the extended useful life period or the termination date, as the case may be, as established by the board of adjustment.

- (3) *Required findings and standards in board-determination of revocation.* To support a finding and conclusion that revokes the status of a revocable use based on written findings of fact and conclusions, the board of adjustment must find any of the following (i) a violation of any condition imposed by the board of adjustment pursuant to section 106-265(b) (Board review and decision); (ii) that the continuation of the revocable use materially and continuously interferes in an adverse manner with the implementation of the legislative purposes of the zoning district in

which the use is located, or (iii) a pattern of repeated occurrences of one or more of the following with respect to the revocable use:

- a. Noise above the maximum permissible limits, as set forth in the zoning ordinance, or in any other city ordinance;
  - b. Traffic generation of more than twice that of the same use or use of a similar nature, based on rates set forth in the most recent edition of the Institute of Traffic Engineers (ITE) Trip Generation Manual;
  - c. Noxious or annoying emissions of odor, smoke, wastewater, light or other matters;
  - d. Hours of operation that begin prior to 7:00 a.m. and extend beyond 10:00 p.m. and as such exacerbate general noise or traffic;
  - e. Lack of substantial compliance with applicable city codes and ordinances;
  - f. Police reports on alleged criminal activity associated with the nonconforming use; or
  - g. Similar factors.
- (4) *Nonconforming uses not subject to revocation of status.* Notwithstanding any provisions of this section 106-267 (Revocation of nonconforming uses status) that could be construed to the contrary, a residential use that is nonconforming in the particular district in which such use is located shall not be subject to revocation under this section 106-267 (Revocation of nonconforming use status).
- (5) *Conditions for continuation.* In making a decision not to revoke the status of a revocable use pursuant to section 106-267(3) (Required findings and standards in board-determination of revocation) the board of adjustment may impose conditions on the use that are necessary to accomplish the purposes of this section, including, but not limited to required improvement of, or modifications to, existing improvements on the property or limitations on hours or nature of operations.
- (6) *Appeal.* Any person aggrieved by the decision of the board of adjustment, or a taxpayer, or an officer, department, board or bureau of the city may appeal the decision in accordance with V.T.C.A., Local Government Code § 211.011. The decision of the board of adjustment is final and incontestable unless appealed to the district court within ten days after the date the decision is filed in the board of adjustment's office.

#### **Sec. 106-268. Nonconforming lots of record.**

- (a) *Continuance of nonconforming lots of record.* Subject to all limitations herein set forth, any nonconforming lot may continue without change in boundaries and may be utilized or developed provided that the uses and development are otherwise authorized as provided herein. No new structure shall be placed thereon except in conformity with the applicable controls of the district in which the lot is located. No new use may be undertaken on nonconforming lots of record, unless said change in use or is first submitted to the planning director for review. The planning director shall review said proposed change in use, for purposes of insuring compliance with this chapter, taking into account the particular restraints imposed by the degree of nonconformity of said nonconforming lot of record. The director's review shall include, and be limited to required parking, loading, vehicular access, landscaping, setbacks, utility availability, parking lot surfacing for required parking, dumpster enclosures, and other requirements as imposed by this Chapter.

Decisions of the planning director made pursuant to provisions contained in this section are subject to appeal to the board of adjustment as provided in section 106-89 (Appeals to board of adjustment) of this chapter.

- (b) *Discontinuance of nonconforming lots of record.* Any lot which is made conforming by combining with other lots for purpose of sale or development, or by development, or by subdividing, thereafter shall be recognized as a conforming lot and shall comply in full with the provisions of these regulations;



provided however, that a nonconforming lot of record that is made conforming shall not thereafter be changed back to a nonconforming lot.

**Sec. 106-269. Zoning of annexed property.**

- (a) *Temporary R-1 classification of annexed property.* All territory annexed hereafter to the city shall be temporarily classified as R-1 low density residential, only until permanently zoned by the La Porte City Council. Immediately after the annexation of any territory to the City of La Porte, the city planning and zoning commission shall commence any action necessary to recommend to the city council a permanent zoning classification. The procedure for making permanent such classification shall be the same as is provided by law for the adoption of the original zoning regulations, and shall take place within 180 days from the date of annexation.
- (b) *Developments presented to city prior to annexation.* In the event a development or subdivision is presented to the city planning and zoning commission prior to annexation, that specifies a particular land use, the planning and zoning commission may recommend zoning categories to the city council, after hearing, so that permanent zoning may be considered simultaneously and in conjunction with the annexation proceedings.
- (c) *Issuance of building permits in annexed areas.* In an area temporarily classified as R-1 low density residential, a building permit may be issued for the construction of structures or uses permitted by low density residential district regulations, however, other structures or uses are not permitted unless application for such structures or use is made to the city planning and zoning commission for consideration and recommendation to the city council.

**Secs. 106-270—106-300. Reserved.**

**ARTICLE III. DISTRICTS**

**DIVISION 1. GENERALLY**

**Sec. 106-301. Official zoning map provisions.**

- (a) The city is hereby divided into zones, or districts, as shown on the zoning maps described in sections 106-301 (Official zoning map provisions) through 106-308 (Interpretation of zoning district boundaries) which, together with all explanatory matter thereon, are as passed and amended adopted by reference and declared to be part of this chapter. Three original and identical copies of the zoning district map shall be identified by the signature of the mayor, attested by the city secretary and bearing the seal of the city under the following words:

"This is to certify that this is the Original Zoning Map/Official Zoning Map referenced to in Article 2 of Ordinance No. \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ of the City of La Porte, Texas."

- (b) One copy, hereafter called the original zoning map, shall be filed with the city secretary and retained as the original record and shall not be changed in any manner.
- (c) Two copies, hereafter called the official zoning map shall be filed with the enforcing officer and city secretary and shall be maintained up-to-date by the department of Planning and Development.

**Sec. 106-302. Changes in district boundaries.**

If, in accordance with the provisions of this chapter and Local Government Code § 211.006, changes are made in the district boundaries or other matter portrayed on the official zoning maps, such changes shall be entered on the official zoning maps by the Planning and Development department promptly after the amendment has been approved by the city council.

### **Sec. 106-303. Zoning map change procedures.**

Approved zoning changes shall be entered on the official zoning maps by the Director of Planning and Development or his designated representative and each change shall be identified on the maps with the date and number of the ordinance making the change. No amendment to this chapter which involves matter portrayed on the official zoning maps shall become effective until after such ordinance has been finally approved by the city council.

### **Sec. 106-304. Unauthorized map changes.**

No change of any nature shall be made on the official zoning maps or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered null and void.

### **Sec. 106-305. Location and authority of zoning maps.**

Regardless of the existence of purported copies of the official zoning maps which may from time to time be made public or published, the official zoning maps shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the city. The official zoning maps shall be available to the public at all hours when the city hall is open to the public.

### **Sec. 106-306. Replacement of the zoning maps.**

In the event that the official zoning maps become damaged, destroyed, lost or difficult to interpret because of the nature and/or number of changes and additions, the city council may, by resolution, adopt a new official zoning map based on review and a written report from the planning and zoning commission, which shall supersede the prior official zoning maps. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning maps, but no such corrections shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city secretary, and bearing the seal of the city and date under the following words:

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of the map being replaced) as part of the Zoning Ordinance of the City of La Porte, Texas."

### **Sec. 106-307. Zoning map history.**

Unless the prior official zoning map has been lost or has been totally destroyed, the prior map, as superseded in accordance with section 106-306 (Replacement of the zoning maps), or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

### **Sec. 106-308. Interpretation of zoning district boundaries.**

In determining the location of zoning district boundaries on the map accompanying and made a part of these regulations, the following rules shall apply:

- (1) Where boundaries are shown to follow streets or alleys, the centerline of such streets or alleys as they exist at the time of adoption of these regulations shall be the zoning boundary.
- (2) Where boundaries are shown to enter on cross platted blocks, property lines of lots, as they exist at the time of adoption of these regulations, shall be the zoning boundary.

- (3) In case of a district boundary line dividing a property into two parts, the district boundary line shall be construed to be the property line nearest the district boundary line as shown.
- (4) Where boundaries are shown on unsubdivided property, the location shall be determined by use of the scale shown on the map unless dimensions are given on the map.

**Sec. 106-309. Land use districts.**

For the purpose of this chapter, the city is hereby divided into land use development districts as follow:

District Symbol	District
R-1	Low density residential district
R-2	Mid density residential district
R-3	High density residential district
LL	Large lot residential district
MH	Manufactured housing district
NC	Neighborhood commercial district
GC	General commercial district
MS	Main street district with overlay
MU	Mixed use district
BI	Business-industrial district
LI	Light industrial district
HI	Heavy industrial district
PUD	Planned unit development district

**Sec. 106-310, Table A, Commercial & Industrial Uses**

2012 NAICS Code	2012 NAICS Title	**	NC	MS	GC	MU	BI	LI	HI
	Artisan shops with a retail component 1,000 sq ft max		P <sup>3</sup>			P <sup>3</sup>			
	Artisan shops with a retail component 2,500 sq ft max			P <sup>3</sup>	P <sup>3</sup>	C			
	Offices only for any use code			P	P		P	P	P
	All uses permitted or/accessory in R-3 zone, except single-family detached and special lot, duplexes, quadruplexes, townhouses, and		P	P <sup>1</sup>	P	P			



32712	Clay Building Material and Refractories Manufacturing								P
3272	Glass and Glass Product Manufacturing								
3273	Cement and Concrete Product Manufacturing								
3274	Lime and Gypsum Product Manufacturing								
3279	Other Nonmetallic Mineral Product Manufacturing								
331	Primary Metal Manufacturing								P
3321	Forging and Stamping							P	P
3322	Cutlery and Handtool Manufacturing					P	P	P	
3323	Architectural and Structural Metals Manufacturing								
3324	Boiler, Tank, and Shipping Container Manufacturing								
3325	Hardware Manufacturing								
3326	Spring and Wire Product Manufacturing								
3327	Turned Product and Screw, Nut, and Bolt Manufacturing								
332811	Metal Heat Treating					C	P	P	
332812	Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers						P	P	
332813	Electroplating, Plating, Polishing, Anodizing, and Coloring					P	P	P	
332911	Industrial Valve Manufacturing						P	P	
332912	Fluid Power Valve and Hose Fitting Manufacturing						P	P	
332913	Plumbing Fixture Fitting and Trim Manufacturing					P	P	P	
332919	Other Metal Valve and Pipe Fitting Manufacturing					P	P	P	
332991	Ball and Roller Bearing Manufacturing						P	P	
332992	Small Arms Ammunition Manufacturing								P
332993	Ammunition (except Small Arms) Manufacturing								P
332994	Small Arms, Ordnance, and Ordnance Accessories Manufacturing								C
332996	Fabricated Pipe and Pipe Fitting Manufacturing						P	P	
332999	All Other Miscellaneous Fabricated Metal Product Manufacturing					P	P	P	
3331	Agriculture, Construction, and Mining Machinery Manufacturing							P	P
333241	Food Product Machinery Manufacturing								
333242	Semiconductor Machinery Manufacturing								
333243	Sawmill, Woodworking, and Paper Machinery Manufacturing								
333244	Painting Machinery and Equipment Manufacturing								
333249	Other Industrial Machinery Manufacturing					P	P	P	
3333	Commercial and Service Industry Machinery Manufacturing								
333413	Industrial and Commercial Fan and Blower and Air Purification Equipment Manufacturing						P	P	
333414	Heating Equipment (except Warm Air Furnaces) Manufacturing					P	P	P	
333415	Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial					P	P	P	



	Parts Manufacturing								
336320	Motor Vehicle Electrical and Electronic Equipment Manufacturing						P	P	P
33633	Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing								
33634	Motor Vehicle Brake System Manufacturing								
33635	Motor Vehicle Transmission and Power Train Parts Manufacturing							P	P
33636	Motor Vehicle Seating and Interior Trim Manufacturing						P	P	P
33637	Motor Vehicle Metal Stamping							P	P
33639	Other Motor Vehicle Parts Manufacturing						P	P	P
3364	Aerospace Product and Parts Manufacturing								
3365	Railroad Rolling Stock Manufacturing							P	P
336611	Ship Building and Repairing								P
336612	Boat Building				C		P	P	P
336991	Motorcycle, Bicycle, and Parts Manufacturing						P	P	P
336992	Military Armored Vehicle, Tank, and Tank Component Manufacturing							P	P
336999	All Other Transportation Equipment Manufacturing							P	P
337110	Wood Kitchen Cabinet and Countertop Manufacturing			P <sup>3</sup>	P <sup>3</sup>		P	P	P
337121	Upholstered Household Furniture Manufacturing			P <sup>3</sup>	P <sup>3</sup>		P	P	P
337122	Non-upholstered Wood Household Furniture Manufacturing			P <sup>3</sup>	P <sup>3</sup>		P	P	P
3371	Household and Institutional Furniture and Kitchen Cabinet Manufacturing						P	P	P
3372	Office Furniture (including Fixtures) Manufacturing								
3379	Other Furniture Related Product Manufacturing								
339	Miscellaneous Manufacturing						P	P	P
<b>42</b>	<b>Wholesale Trade</b>								
4231	Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers						P	P	P
4232	Furniture and Home Furnishing Merchant Wholesalers								
4233	Lumber and Other Construction Materials Merchant Wholesalers								
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers								
42351	Metal Service Centers and Other Metal Merchant Wholesalers								
42352	Coal and Other Mineral Merchant Wholesalers								P
4236	Household Appliances and Electrical and Electronic Goods Merchant Wholesalers						P	P	P
4237	Hardware, and Plumbing and Heating Equipment and Supplies Wholesalers								
4238	Machinery, Equipment, and Supplies Merchant Wholesalers							C	P
423910	Sporting and Recreational Goods and Supplies Merchant Wholesalers				C		P	P	P
423920	Toy and Hobby Goods and Supplies Merchant				C		P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>

	Wholesalers								
423930	Recyclable Material Merchant Wholesalers								P
423940	Jewelry, Watch, Precious Stone, and Precious Metal Merchant Wholesalers						P	P	P
423990	Other Miscellaneous Durable Goods Merchant Wholesalers						P	P	P
4241	Paper and Paper Product Merchant Wholesalers						P	P	P
4242	Drugs and Druggists' Sundries Merchant Wholesalers								
4243	Apparel, Piece Goods, and Notions Merchant Wholesalers								
4244	Grocery and Related Product Merchant Wholesalers								
4245	Farm Product Raw Material Merchant Wholesalers							P	P
424610	Plastics Materials and Basic Forms and Shapes Merchant Wholesalers						P	P	P
424690	Other Chemical and Allied Products Merchant Wholesalers						P	P	P
424710	Petroleum Bulk Stations and Terminals								C
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)						C	P	P
424810	Beer and Ale Merchant Wholesalers						P	P	P
424820	Wine and Distilled Alcoholic Beverage Merchant Wholesalers						P	P	P
424910	Farm Supplies Merchant Wholesalers							C	P
42492	Book, Periodical, and Newspaper Merchant Wholesalers						C	P	P
42493	Flower, Nursery Stock, and Florists' Supplies Merchant Wholesalers								
42495	Paint, Varnish, and Supplies Merchant Wholesalers								
42499	Other Miscellaneous Nondurable Goods Merchant Wholesalers								
425	Wholesale Electronic Markets and Agents and Brokers				P		P	P	P
<b>44-45</b>	<b>Retail Trade</b>								
441110	New Car Dealers			P	P		P	P	P
441120	Used Car Dealers			P	P		P	P	P
441210	Recreational Vehicle Dealers				P		P	P	P
44122	Motorcycle, Boat, and Other Motor Vehicle Dealers			P	P		P	P	P
4413	Automotive Parts, Accessories, and Tire Stores								
442	Furniture and Home Furnishings Stores			P	P		P	P	P
443	Electronics and Appliance Stores		P	P	P		P	P	P
444110	Home Centers				P		P	P	P
444120	Paint and Wallpaper Stores			P	P		P	P	P
444130	Hardware Stores		P	P	P		P	P	P
44419	Other Building Material Dealers			P	P		P	P	P
4442	Lawn and Garden Equipment and Supplies Stores								
445	Food and Beverage Stores		P	P	P	P	P	P	P



446	Health and Personal Care Stores		P	P	P	P	P	P	P
44711	Gasoline Stations with Convenience Stores		P	P	P		P	P	P
44719	Other Gasoline Stations				P <sup>5</sup>		P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>
448	Clothing and Clothing Accessories Stores		P	P	P	P	P	P	P
451	Sporting Goods, Hobby, Musical Instrument, and Book Stores		P	P	P	P	P	P	P
4521	Department Stores				P		P	P	P
452910	Warehouse Clubs and Supercenters								
452990	All Other General Merchandise Stores		P	P	P	P	P	P	P
4531	Florists		P	P	P	P	P	P	P
4532	Office Supplies, Stationery, and Gift Stores								
4533	Used Merchandise Stores								
45391	Pet and Pet Supplies Stores								
45392	Art Dealers								
45393	Manufactured (Mobile) Home Dealers						P	P	P
453991	Tobacco Stores		P	P	P	P	P	P	P
453998	All Other Miscellaneous Store Retailers (except Tobacco Stores)		P	P	P	P	P	P	P
4541	Electronic Shopping and Mail-Order Houses		P	P	P		P	P	P
454210	Vending Machine Operators				P		P	P	P
454310	Fuel Dealers							P	P
454390	Other Direct Selling Establishments			P	P		P	P	P
<b>48-49</b>	<b>Transportation and Warehousing</b>								
481	Air Transportation						P	P	P
482	Rail Transportation								P
483	Water Transportation	**							
484	Truck Transportation							P <sup>6</sup>	P <sup>6</sup>
4851	Urban Transit Systems				P		P	P	P
4852	Interurban and Rural Bus Transportation								
48531	Taxi Service			P	P		P	P	P
48532	Limousine Service			P	P		P	P	P
48541	School and Employee Bus Transportation				P		P	P	P
48551	Charter Bus Industry				P		P	P	P
485991	Special Needs Transportation			P	P		P	P	P
485999	All Other Transit and Ground Passenger Transportation			P	P		P	P	P
486	Pipeline Transportation	**							
487	Scenic and Sightseeing Transportation			P	P		P	P	P
4881	Support Activities for Air Transportation						P	P	P
4882	Support Activities for Rail Transportation								P
4883	Support Activities for Water Transportation	**							
488390	Other Support Activities for Water Transportation			P	P		P	P	P
4884	Support Activities for Road Transportation				P		P	P	P
4885	Freight Transportation Arrangement								
488991	Packing and Crating						C	P	P
488999	All Other Support Activities for Transportation						C	P	P
491	Postal Service				P		P	P	P
492110	Couriers and Express Delivery Services						P	P	P
492210	Local Messengers and Local Delivery				P		P	P	P
493	Warehousing and Storage							P <sup>6</sup>	P <sup>6</sup>
<b>51</b>	<b>Information</b>								

511	Publishing Industries (except Internet)			C	P		P	P	P
512110	Motion Picture and Video Production						P	P	P
512120	Motion Picture and Video Distribution						P	P	P
512131	Motion Picture Theaters (except Drive-Ins)			P	P		P	P	P
512132	Drive-In Motion Picture Theaters						P	P	P
512191	Tele-production and Other Postproduction Services			P	P		P	P	P
512199	Other Motion Picture and Video Industries				C		P	P	P
512210	Record Production			P	P		P	P	P
512220	Integrated Record Production/Distribution						P	P	P
51223	Music Publishers			P	P		P	P	P
51224	Sound Recording Studios								
51229	Other Sound Recording Industries								
515	Broadcasting (except Internet)			P	P		P	P	P
517	Telecommunications			P	P		P	P	P
518	Data Processing, Hosting, and Related Services			P	P		P	P	P
519	Other Information Services			P	P		P	P	P
52	Finance and Insurance								
521	Monetary Authorities-Central Bank			P	P		P	P	P
522	Credit Intermediation and Related Activities			P	P		P	P	P
523110	Investment Banking and Securities Dealing			P	P		P	P	P
523120	Securities Brokerage			P	P		P	P	P
523130	Commodity Contracts Dealing		P	P	P		P	P	P
523140	Commodity Contracts Brokerage			P	P		P	P	P
523210	Securities and Commodity Exchanges			P	P		P	P	P
523910	Miscellaneous Intermediation		P	P	P		P	P	P
523920	Portfolio Management		P	P	P		P	P	P
523930	Investment Advice			P	P		P	P	P
523991	Trust, Fiduciary, and Custody Activities		P	P	P		P	P	P
523999	Miscellaneous Financial Investment Activities			P	P		P	P	P
5241	Insurance Carriers			P	P		P	P	P
5242	Agencies, Brokerages, and Other Insurance Related Activities		P	P	P	P	P	P	P
52511	Pension Funds			P	P		P	P	P
52512	Health and Welfare Funds								
52519	Other Insurance Funds		P	P	P		P	P	P
5259	Other Investment Pools and Funds								
<b>53</b>	<b>Real Estate Rental and Leasing</b>								
531	Real Estate		P	P	P	P	P	P	P
532111	Passenger Car Rental			P	P		P	P	P
532112	Passenger Car Leasing			P	P		P	P	P
532120	Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing				P		P	P	P
532210	Consumer Electronics and Appliances Rental			P	P		P	P	P
53222	Formal Wear and Costume Rental		P	P	P	P	P	P	P
53223	Video Tape and Disc Rental								
532291	Home Health Equipment Rental								
532292	Recreation Good Rental								
532299	All Other Consumer Goods Rental			P	P		P	P	P
532310	General Rental Centers			P	P		P	P	P
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing							P	P
532412	Construction, Mining, and Forestry Machinery				P		P	P	P

	and Equipment Rental and Leasing								
532420	Office Machinery and Equipment Rental and Leasing			P	P		P	P	P
532490	Other Commercial and Industrial Machinery and Equipment Rental and Leasing				P		P	P	P
533	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works)		P	P	P		P	P	P
<b>54</b>	<b>Professional, Scientific, and Technical Services</b>								
5411	Legal Services		P	P	P		P	P	P
541211	Offices of Certified Public Accountants								
541213	Tax Preparation Services								
541214	Payroll Services			P	P		P	P	P
541219	Other Accounting Services								
54131	Architectural Services								
54132	Landscape Architectural Services								
54133	Engineering Services								
54134	Drafting Services								
54135	Building Inspection Services								
54136	Geophysical Surveying and Mapping Services								
50137	Surveying and Mapping (except Geophysical) Services								
541380	Testing Laboratories				P		P	P	P
5414	Specialized Design Services			P	P		P	P	P
5415	Computer Systems Design and Related Services								
5416	Management, Scientific, and Technical Consulting Services								
541711	Research and Development in Biotechnology							P	P
541712	Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology)							P	P
54172	Research and Development in the Social Sciences and Humanities			P	P		P	P	P
5418	Advertising, Public Relations, and Related Services								
54191	Marketing Research and Public Opinion Polling								
541921	Photography Studios, Portrait		P	P	P	P	P	P	P
541922	Commercial Photography			C	P		P	P	P
541930	Translation and Interpretation Services			P	P		P	P	P
541940	Veterinary Services		P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>		P	P	P
541990	All Other Professional, Scientific, and Technical Services			P	P		P	P	P
<b>55</b>	<b>Management of Companies and Enterprises</b>			P	P		P	P	P
<b>56</b>	<b>Administrative and Support, Waste Management, and Remediation Services</b>								
5611	Office Administrative Services			P	P		P	P	P
5612	Facilities Support Services								
5613	Employment Services								
5614	Business Support Services								
561510	Travel Agencies		P	P	P	P	P	P	P
56152	Tour Operators			P	P		P	P	P
56159	Other Travel Arrangement and Reservation								

56161	Services								
561621	Investigation, Guard, and Armored Car Services Security Systems Services (except Locksmiths)								
561622	Locksmiths		P	P	P	P	P	P	P
561710	Exterminating and Pest Control Services			P	P		P	P	P
561720	Janitorial Services		P	P	P		P	P	P
561730	Landscaping Services			P	P		P	P	P
561740	Carpet and Upholstery Cleaning Services			P	P		P	P	P
561790	Other Services to Buildings and Dwellings		P	P	P		P	P	P
5619	Other Support Services				P		P	P	P
562111	Solid Waste Collection							P	P
562112	Hazardous Waste Collection								C
562119	Other Waste Collection							P	P
5622	Waste Treatment and Disposal								C
5629	Remediation and Other Waste Management Services						P	P	P
<b>61</b>	<b>Educational Services</b>								
6111	Elementary and Secondary Schools		P	P	P		P	P	P
6112	Junior Colleges								
6113	Colleges, Universities, and Professional Schools								
611410	Business and Secretarial Schools			C	C		P	P	P
61142	Computer Training			P	P		P	P	P
61143	Professional and Management Development Training								
611511	Cosmetology and Barber Schools								
611512	Flight Training								
611513	Apprenticeship Training								
611519	Other Technical and Trade schools			P <sup>9</sup>	P <sup>9</sup>		P	P	P
6116	Other Schools and Instruction			P	P		P	P	P
6117	Educational Support Services								
<b>62</b>	<b>Health Care and Social Assistance</b>								
6211	Office of Physicians		P	P	P		P	P	P
6212	Office of Dentists								
6213	Office of Other Health Practitioners								
621410	Family Planning Centers			C	P		P	P	P
621420	Outpatient Mental Health and Substance Abuse Centers			C	P		P	P	P
621491	HMO Medical Centers			P	P		P	P	P
621392	Kidney Dialysis Centers			C	P		P	P	P
621493	Free Standing Ambulatory Surgical and Emergency Centers								
621498	All Other Outpatient Care Centers								
6215	Medical and Diagnostic Laboratories								
6216	Home Health Care Services								
6219	Other Ambulatory Health Care Services								
622	Hospitals			C	P		P	P	P
623110	Nursing Care Facilities (Skilled Nursing Facilities)		P	P	P		P	P	P
623210	Residential Intellectual and Developmental Disability Facilities		P	P	P		P	P	P
623220	Residential Mental Health and Substance Abuse Facilities				P		P	P	P
623311	Continuing Care Retirement Communities		P	P	P		P	P	P

623312	Assisted Living Facilities for the Elderly				P		P	P	P
62399	Other Residential Care Facilities				P		P	P	P
624	Social Assistance				P		P	P	P
<b>71</b>	<b>Arts, Entertainment, and Recreation</b>								
7111	Performing Arts Companies			P	P		P	P	P
711211	Sports Teams and Clubs								
711212	Racetracks	**							
711219	Other Spectator Sports			P	P		P	P	P
7113	Promoters of Performing Arts, Sports, and Similar Events								
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures								
7115	Independent Artists, Writers, and Performers								
712	Museums, Historical Sites, and Similar Institutions			P	P		P	P	P
71311	Amusement and Theme Parks			P	P		P	P	P
713120	Amusement Arcades			P <sup>10</sup>	P <sup>10</sup>		P <sup>10</sup>	P <sup>10</sup>	P <sup>10</sup>
7132	Gambling Industries	**							
71391	Golf Courses and Country Clubs			P	P		P	P	P
71392	Skating Facilities								
71393	Marinas	**							
71394	Fitness and Recreational Sports Centers			P	P		P	P	P
71395	Bowling Centers								
713990	All Other Amusement and Recreation Industries except shooting range and slot machines.			P <sup>11</sup>	P <sup>11</sup>		P <sup>11</sup>	P <sup>11</sup>	P <sup>11</sup>
<b>72</b>	<b>Accommodation and Food Services</b>								
721110	Hotels (except Casino Hotels) and Motels			P <sup>12</sup>	P <sup>12</sup>		P <sup>12</sup>	P <sup>12</sup>	P <sup>12</sup>
721120	Casino Hotels	**							
721191	Bed-and-Breakfast Inns		P	P	P	P	P	P	P
721199	All Other Traveler Accommodation	**							
721211	RV (Recreational Vehicle) Parks and Campgrounds	**							
721214	Recreational and Vacation Camps (except Campgrounds)								
721310	Rooming and Boarding Houses		P	P	P	P	P	P	P
722310	Food Service Contractors			P	P		P	P	P
722320	Caterers			P	P		P	P	P
722330	Mobile Food Services				P		P	P	P
722410	Drinking Places (Alcoholic Beverages)			P	P	P	P	P	P
7225	Restaurants and Other Eating Places		P	P	P		P	P	P
<b>81</b>	<b>Other Services, except Public Administration</b>								
8111	Automotive Repair and Maintenance			P <sup>15</sup>	P <sup>15</sup>		P <sup>15</sup>	P <sup>15</sup>	P <sup>15</sup>
811211	Consumer Electronics Repair and Maintenance		P	P	P		P	P	P
811212	Computer and Office Machine Repair and Maintenance			P	P		P	P	P
811213	Communication Equipment Repair and Maintenance		P	P	P		P	P	P
811219	Other Electronic and Precision Equipment Repair and Maintenance		P	P	P		P	P	P
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance						P	P	P
811411	Home and Garden Equipment Repair and Maintenance			P	P		P	P	P

811412	Appliance Repair and Maintenance		P	P	P		P	P	P
81142	Reupholstery and Furniture Repair								
81143	Footwear and Leather Goods Repair								
81149	Other Personal and Household Goods Repair and Maintenance								
8121	Personal Care Services		P	P	P	P	P	P	P
81221	Funeral Homes and Funeral Services								
812220	Cemeteries and Crematories		P <sup>13</sup>	P <sup>13</sup>	P <sup>13</sup>	P <sup>13</sup>	P <sup>13</sup>	P <sup>13</sup>	P
812310	Coin-Operated Laundries and Drycleaners		P	P	P	P	P	P	P
812320	Drycleaning and Laundry Services (except Coin-Operated)		P	P	P	P	P	P	P
812331	Linen Supply				P		P	P	P
812332	Industrial Launderers							P	P
812910	Pet Care (except Veterinary) Services			C <sup>14</sup>	C <sup>14</sup>		C <sup>14</sup>	C <sup>14</sup>	C <sup>14</sup>
812921	Photofinishing Laboratories (except One-Hour)				P		P	P	P
812922	One-Hour Photofinishing				P		P	P	P
812930	Parking Lots and Garages			C	P		P	P	P
812990	All Other Personal Services			C	P		P	P	P
813110	Religious Organizations			C	P		P	P	P
8132	Grantmaking and Giving Services		P	P	P		P	P	P
8133	Social Advocacy Organizations								
8134	Civic and Social Organizations			C	P		P	P	P
81391	Business Associations								
81392	Professional Organizations								
81393	Labor Unions and Similar Labor Organizations								
81394	Political Organizations								
813990	Other Similar Organizations (except Business, Professional, Labor, and Political Organizations)		C	C	C	C	P	P	P
814	Private Households	**							
<b>92</b>	<b>Public Administration</b>			P	P		P	P	P
	Parking ramps and structures		P	C	P	C			
	Commercial/Ind. PUD (ref. to Section 106-636)		C	C	C	C	C	C	C
	Outdoor sales as accessory use			P	P				
	Outdoor storage as accessory use			P	P				
	Off-site parking		C	C	C	C			
	Unlisted uses, similar to uses listed above		C	C	C	C	C	C	C

Footnotes:

\*\* Non-classified use categories.

- 1 Within the overlay portion, residential activities are only allowed above the first floor.
- 2 Single family detached prohibited in main street overlay zone, but permitted in main street district.
- 3 Artisan shops are allowed ((see Section 106-480 (Artisan Shop), 106-500 (Artisan Shop) ,106-514 (Artisan Shop))
- 4 No storage or sale of Fire Works.
- 5 Truck Stop shall only be permitted in Business Industrial districts on truck routes along Barbour's Cut Boulevard, State Hwy 225 and State Highway 146 (north of Barbour's Cut Blvd.). No construction of any kind shall be permitted within setbacks for BI zone.
- 6 Must be adjacent to high frequency truck roads as shown on High Frequency Truck Road Map (Ref. Section 106-746)
- 7 Only allowed along State Highway 146
- 8 Livestock prohibited on premises
- 9 Truck Schools prohibited
- 10 Refer to Chapter 10 of the Code of Ordinances (must be at least 300 feet from Church, School, or

Hospital & measured from property line to property line).

- 11 Shooting Range is a Conditional Use
- 12 Hotels and Motel Uses. Hotels and motels are allowed as a conditional use under this Chapter when within 250 feet of residential zoned properties (R-1, R-2, R-3, MH, and LL zoning districts). All hotel and motels are required to install and operate a security and surveillance system to monitor the parking lot area and all ingress/egress points to the building/s.
- 13 Crematories prohibited.
- 14 Dog grooming. There shall be no overnight boarding of animals. All areas used for holding animals shall be located within the same building in which grooming activities take place.
- 15 No vehicle may be parked outside for longer than two weeks.

All permitted uses in commercial and industrial zones must meet the following minimum performance standards. If requested by the enforcement officer, all applications for building permits must include a certification from a registered engineer that verifies compliance with these performance standards. Where applicable, all permitted uses in industrial zones must meet and be in compliance with the appropriate federal, state, or local regulations.

- A. *Lighting and glare.* Any lighting used shall be arranged so as to deflect light away from any adjoining residential zone or from public streets. Direct or sky-reflected glare, where from floodlights or from high temperature processes such as combustion or welding shall not be directed onto any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one footcandle (meter reading) as measured from the centerline of such street. Any light or combination of lights which casts light on residential property shall not exceed 0.4 footcandles (meter reading) as measured from such property.
- B. *Radiation and electrical emissions.* No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.
- C. *Smoke.* The emission of smoke by any use shall be in compliance with and regulated by the appropriate federal, state or local agency.
- D. *Dust or other particulate matter.* The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the appropriate federal, state or local agency.
- E. *Odors.* The emission of odor by any use shall be in compliance with and regulated by the appropriate federal, state or local agency.
- F. *Explosives.* No activities involving the storage, utilization, or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted except such as are specifically licensed by the city council.
- G. *Noise.* All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and as measured at any property line, shall not exceed the following intensity in relation to sound frequency:

Octave Band Frequency	Maximum Sound Levels - Decibels	
	Lot Line	Residential District Boundary
Cycles per Second		
20 to 75	78	63
75 to 150	74	59
150 to 300	68	55
300 to 600	61	51
600 to 1,200	55	45
1,200 to 2,400	49	38
2,400 to 4,800	43	31
Above 4,800	41	25

Impact noise	80	55
<p>Between the hours of 10:00 P.M. and 6:00 A.M. the permissible sound levels beyond residential district boundaries (both Column II and Impact) shall be six decibels less than shown above.</p> <p>In distances where it is determined that a proposed land use may generate a level of noise that will impact on surrounding land uses, the Planning and Zoning Commission and City Council may require that efforts to reduce the potential noise impact be undertaken. These efforts may include screening and landscaping techniques.</p> <p>H. <i>Hours of Operation.</i> Hours of operation are limited for truck stops adjacent to residential areas only. The facility shall only operate during the hour of 6:00 a.m. to 9:00 p.m. and no overnight facilities are allowed on the premises.</p>		

**Sec. 106-311 Visibility triangle**

- (1) Visibility triangles are applicable to all zone districts, with the exception of the Main Street Overlay.
- (2) Structures, fencing, sign faces, and branches and foliage of any shrub, ground cover or tree, are not permitted within the visibility triangle.
- (3) The city may cause removal of any impediment that represents a traffic safety hazard within the visibility triangle.

**Secs. 106-312 – 106-330. Reserved**

**DIVISION 2. RESIDENTIAL DISTRICT REGULATIONS**

Subdivision I. Generally

**Sec. 106-331. Table A, residential uses.**

P (abc)—Permitted uses (subject to designated criteria established in section 106-334 (Special use performance standards; residential)).

P—Permitted uses.

A—Accessory uses (subject to requirements of section 106-741 (General provisions)).

C—Conditional uses (subject to requirements of sections 106-216 (General conditions for all conditional uses in all zoning districts), 106-217 (Conditions for approval), and 106-218 (Amendments) and designated criteria established in section 106-334 (Special use performance standards; residential) as determined by the planning and zoning commission).

\*—Not allowed.

Uses NAICS Code #)	Zones				
	R-1	R-2	R-3	MH	LL



Agriculture, Forestry, Fishing and Hunting (111110-111199)	P	P	P	P	P
Agricultural production, (animal specialties - breeding or sale)	C	*	*	*	C
Bed and breakfast as defined by section 106-1 (Definitions) (721191)	C(h)	C(h)	C(h)	*	C(h)
All other animal production, limited to dogs and cats, on residential large lot † (112990)	A	A	C	C	A
Pet care (except veterinary) services, limited to boarding kennels only (812910)	*	*	*	*	P
Domestic livestock—With an existing principal structure on the property (cattle, horses, hogs, sheep, goats, chickens, and geese)— <i>Single-family residential, large lot</i>	A	A	A	A	PA
Domestic livestock—Without an existing principal structure on the property (permitted in large lot district, but only if tract is one acre in size or greater) including cattle, horses, hogs, sheep, goats, chickens, and geese	*	*	*	*	P
Industrialized housing on a permanent foundation	P	P	P	P	P
Single-family dwelling, detached	P	P	P	P	P
Single-family dwelling, special lot	*	P	P	P	*
Single-family dwellings, zero lot line (patio homes, etc.)	*	P	P	*	*
Duplexes, double bungalows (two-family dwelling units)	*	P	P	*	*
Townhouses/Condominium	*	P(I)	P(I)	*	*
Conversion of single-family dwellings to duplexes (or no more than two-family dwellings)	*	P	P	*	*
Tri-plexes and quadraplexes (three and four-family dwelling units)	*	P(I)	P(I)	*	*
Multi-family (more than four dwelling units)	*	*	P(I)	*	*
3—4 unit multifamily dwellings	*	P	P	*	*

Multifamily (over 4 units)	*	*	P	*	*
Modular housing on a permanent foundation system section 106-1 (Definitions)	P	P	P	P	P
Manufactured housing subdivisions restricted to H.U.D. certified mobile homes; min. width 20 feet, min. shingled roof pitch 3:12, permanent foundation system; siding similar to surrounding residential	*	C(a)	C(a)	P(a)	*
Uses	R-1	R-2	R-3	MH	LL
Manufactured housing subdivisions (restricted to H.U.D. certified mobile homes on permanent foundation systems)	*	C(a)	*	*	*
Manufactured housing parks	*	*	*	P (a,d,f)	*
Manufactured housing	*	*	*	P	*
Group care facilities providing food and shelter to persons who are unrelated to the proprietor of the establishment (623)					
3 or less persons	P (j)	P (j)	P (j)	P (j)	P (j)
4 or more persons	P (k)	P (k)	P (k)	P (k)	P (k)
Childcare home in private home (services no more than 6)	P	P	P	P	P
Daycare centers (services more than 6) (624410)	*	P	P	P	*
Freestanding on-premises identification sign; townhouses, multi-family developments, group care facilities (not located within a residential neighborhood), subdivisions, education and religious facilities	See article VII of this chapter				
Residential PUD (refer to section 106-636 (Planned unit development procedures))	*	C	C	C	*
Public parks and playgrounds	P	P	P	P	P
Recreational buildings and community centers	C	P	P	P	C
Religious institutions (813110)	C	P (AB)	P (AB)	P (AB)	C

Public or private educational institutions limited to elementary, junior and senior high (611110)	C	P	P	P	C
Junior colleges and technical institutes (611210 and 6115)	*	C	P	*	*
Boarding homes (721310)	*	P	P	*	*
Civic, social and fraternal organizations (8134)	*	*	C	*	*
Convalescent homes, sanitarium, nursing or convalescent homes	*	*	P	*	*
Private garages, carports and off-street parking (associated with residential uses)	A	A	A	A	A
Storage of equipment behind a screening device (permitted in large lot district, but only if tract is one acre in size or greater)	A	A	A	A	P
Storage of recreational vehicles or boats	A	A	A	A	A
Storage of equipment in an accessory building or behind a screening device	A	A	A	A	A
Home occupations	A	A	A	A	A
Noncommercial greenhouses	A	A	A	A	A
Noncommercial recreation facilities associated with residence	A	A	A	A	A
Noncommercial toolhouses, barns, sheds, storage buildings (associated with residence, except in large lot district for tracts one acre in size or greater)	A	A	A	A	P
Boarding or renting of rooms (1 person max.)	A	A	A	A	A
Off-street loading (refer to section 106-840 (Off-street loading requirements))	*	*	*	*	*
Off-street parking (refer to See article VI of this chapter)	A	A	A	A	A
Petroleum pipelines (restricted to existing pipeline corridors)	P	P	P	P	P

Residential density bonus, as provided in section 106-334(g) (Density bonus)	C	C	C	C	C
Secondary dwelling units	C	P	P	*	C
Yard Parking, as defined by section 106-334 (e) (Compatible alterations and adequate parking)	*	*	*	*	*

**Sec. 106-332. Interpretation and enforcement.**

Property uses, except as provided for by section 106-331, (Table A, residential uses) are prohibited and constitute a violation of this chapter.

**Sec. 106-333. Table B, residential area requirements.**

(a) *Table B, residential area requirements.*

Uses <sup>8</sup>	Minimum Lot Area/D.U. S.F.	Minimum Lot Width L.F.	Minimum Yard Setbacks L.F. F.R.S. 2, 3, 4, 5, 6, 10, 11, 12, 13, 14	Maximum Height <sup>15</sup>	Minimum Site Area/Unit S.F. 7, 16	Minimum Development Open Space/ Unit S.F. 17	Maximum Lot Coverage/ Minimum Landscaping Required 9, 18, 19
Single-family detached	6000	50	25-15-5	35 Ft.	9100 4.8 DU/A	—	40%/N/A
Single-family large lot	43560	90	25-15-5	45 Ft.	43560 1.0 DU/A	—	40%/N/A
Single-family special lot line, 0 lot line	4500	40	20-10-0	35 Ft.	7300 6.0 DU/A	Footnote # 1	60%/N/A
Duplexes	6000	60	25-20-20	45 Ft.	8.0 DU/A	Footnote # 1	60%/N/A
Single-family converted to	6000	50	20-10-5	35 Ft.	N/A	N/A	50%/N/A

multifamily							
Townhouses, quadrplexes (10,000 s.f of site area 100 ft. wide)	2000	20	25-20-20	45 Ft.	4400 10.0 DU/A	Footnote # 1	75%/25%
Multifamily	20000	100	25-20-20	45 Ft.	1600 14 DU/A	Footnote # 1	60%/25%
Manufactured housing	4500	40	20-10-5	25 Ft.	7300 6.0 DU/A	Footnote # 1	60%/6%
Manufactured housing subdivision or parks (5 acre min.)		100 of front road frontage	N/A	N/A	N/A	N/A	N/A/N/A
State Licensed & Registered Child-care homes (Max. 12 in private home; per TX Dept. of Family & Protective Services, Ch. 747)	6000	50	25-15-5	35 Ft.	9100 4.8 DU/A	N/A	40% / N/A
Group care facilities – 3 or less persons	6000	50	25-15-5	35 Ft.	9100 4.8 DU/A	N/A	40% / N/A
Public or private educational and religious institutions, large group care facilities, daycare centers, recreational buildings, boarding, and nursing homes			30-20-10	45 Ft.	N/A	N/A	N/A/6%
Freestanding on-premises signs	See article VII of this chapter						
Large lot district where tract is one acre in size or greater	See section 106-416 (Special regulations)						

(without existing principal structure) Accessory structure/domestic livestock	
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Table B footnotes.

1

Lot Size	Required Developed Open Space/Lot
5000—6000 Sq. Ft.	200 Sq. Ft.
4000—4999 Sq. Ft.	300 Sq. Ft.
3000—3999 Sq. Ft.	400 Sq. Ft.
2000—2999 Sq. Ft.	500 Sq. Ft.

a. Minimum size of developed open space: One-half acre for every 80 units or fraction thereof.

(i) *For multifamily residential developments:* Minimum of 25 percent of the total development regardless of size of development.

(ii) *For townhouse/quadraplex developments:* One-half acre for every 80 units or fraction thereof.

b. All required developed open spaces must be operated and maintained by a homeowners association, subject to the conditions established in sections 106-676 (Property controls), 106-677 (Public services), 106-678 (Building height), and 106-679 (Roadways), with all documentation required to be submitted for filing in conjunction with the final plat. (See also the City Development Ordinance Number 1444, section 4.04 which is on file in the city secretary's office.)

<sup>2</sup> A minimum landscape setback of 20 feet will be required adjacent to all conservation areas. Buildings, parking areas, and refuse containers will not be allowed in such setback area. These areas are to be landscaped with trees, shrubs, and groundcover, with a planting plan required to be submitted and approved by the enforcement officer.

<sup>3</sup> The minimum setback adjacent to any utility easement located in a rear yard shall be three feet. No portion of any building including projections of any nature shall encroach into any utility easement or vertical projection of the easement boundary.

<sup>4</sup> Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback shall be the average of the adjacent structures. If there is only one adjacent structure, the front yard minimum setback shall be the average of the required setback and the setback of only one adjacent structure. In no case shall the minimum front yard setback exceed 30 feet.

<sup>5</sup> All side yards adjacent to public R.O.W.'s not classified as freeway, arterial or collector must be ~~ten~~ five feet except accessory building (see Section 106-741). All side yards adjacent to public R.O.W.'s classified as freeway, arterial or collector must be 10 feet.

<sup>6</sup> In the case of zero lot line housing, the side setback opposite the zero lot line must be ten feet.

<sup>7</sup> D.U.A. is an abbreviation for dwelling units per acre, or the maximum density permitted.

<sup>8</sup> All structures except slab on grade, shall be placed on a foundation system described as: An assembly of materials constructed below or partially below grade, not intended to be removed from its installation site, which is designed to support the structure and engineered to resist the imposition of external forces as defined by the City's Code of Ordinances or in the case of industrialized housing, the requirements of the TDLS. Such foundation system shall be skirted or enclosed with wood or masonry to give the appearance of a solid foundation, if one is not provided, compatible with the appearance of adjacent housing, and subject to the requirements of the City's Code of Ordinances.

<sup>9</sup> See article V, Division 4 of this chapter for additional requirements.

<sup>10</sup> In the case of multifamily residential developments with 50 or more units, said complexes must be located at least 1,000 feet from other multi-family residential developments of 20 or more units.

<sup>11</sup> Within the building setback, there must be a ten-foot opaque screen consisting of shrubs and fencing. (See section 106-334(i) (Additional multifamily regulations) for screening and fencing requirements.)

<sup>12</sup> Residential developments that are townhouses, quadruplexes, or multi-family dwelling units must have a minimum of 25 percent landscaping.

<sup>13</sup> Multifamily residential developments adjacent to single-family residential developments must establish a 25-foot buffer between the two developments. This buffer is in addition to the setback as established by this table.

<sup>14</sup> In the case of multifamily residential developments, no off-street parking shall be placed within the required setback, or within the required additional 25-foot buffer when the development is situated adjacent to a single-family residential development. The space needed to meet the required parking spaces shall be exclusive of the required setback and the additional buffer.

<sup>15</sup> In the case of multifamily residential developments being adjacent to single-family residential developments, the buildings within the multifamily residential developments that are directly adjacent to the single-family residential development shall be limited to two-stories in height. Buildings within the interior of the multifamily residential developments may be three-stories in height.

<sup>16</sup> Multifamily residential developments cannot exceed 180 dwelling units.

<sup>17</sup> See section 106-334(i)(3) for open space utilization criteria.

<sup>18</sup> Following structures exempted from 40 percent lot coverage on single-family detached: Accessory buildings 200 s.f. or less and patio covers up to 900 s.f.

<sup>19</sup> Maximum lot coverage for single-family detached in planned unit development (PUD) zoning district or residential subdivisions requiring a detention/drainage system, shall be 50 percent.

(The impervious cover factor of 55 percent for the total site for drainage, as prescribed in PICM, remains in effect.)

**Sec. 106-334. Special use performance standards; residential.**

- (a) *Screening.*
  - (1) Refer to 106-443(a) (Screening) for requirements.
  - (2) Screening will be required in the following situations:
    - a. Parking areas for recreational buildings, community centers, religious, multifamily over four, and private and public educational institutions.
    - b. Manufactured housing parks and subdivisions screened from abutting uses.
  - (3) Required screening will count toward the required percentage of landscaping.
- (b) *Traffic control.* The traffic generated by a use shall be channelized and controlled in a manner that will avoid congestion on public streets, safety hazards, or excessive traffic through low density residential areas. The traffic generated will not raise traffic volumes beyond the capacity of the surrounding streets. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movements, and shall be subject to the approval of the director. The proposed development should be adequately served by a collector or arterial street without circulating through low density residential uses or districts in the following cases:
  - (1) Junior or senior high school, junior colleges and technical institutes.
  - (2) Manufactured housing subdivisions and manufactured housing parks.
- (c) *Compatibility with surrounding area.* The architectural appearance and functional plan of the building(s) and site shall reflect the building character of the area and shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the development. The proposed development is to be compatible with the existing and planned use of the area and conflicts are not to be created between the proposed use and existing and intended future use of the surrounding area.
- (d) *Required license obtained.* All necessary governmental permits and licenses are secured with evidence of such placed on record with the city.
- (e) *Compatible alterations and adequate parking.* Adequate parking as required by article VI of this chapter must be provided on the lot and not within any unpaved required front yard. Any exterior alterations must be compatible with the existing structure, and the surrounding neighborhood.
- (f) *Manufactured housing criteria (manufactured housing parks only).* A preliminary certified site plan must be submitted simultaneously with the submissions required in the mobile home park ordinance of the city and the city development ordinance that illustrates compliance with the following:
  - (1) Legal description and size in acres of the proposed manufactured housing park. Such park shall not be less than five acres.
  - (2) Locations and size of all manufactured housing sites, dead storage area, recreation areas, laundry drying areas, roadways, parking sites, and all setback dimensions (parking areas, exact manufactured housing sites, etc.).
  - (3) Preliminary landscaping plans and specifications.
  - (4) Location and width of sidewalks.
  - (5) Plans of sanitary sewer disposal, surface drainage, water systems, electrical service, and gas service.
  - (6) Location and size of all streets abutting the manufactured housing park and all driveways from such streets to the manufactured housing park.
  - (7) Preliminary road construction plan.
  - (8) Preliminary plans for any and all structures.



- (9) Such other information as required or implied by these standards or requested by public officials.
  - (10) Name and address of developer or developers.
  - (11) Description of the method of disposing of garbage and refuse and location of approved solid waste receptacles.
  - (12) Detailed description of maintenance procedures and ground supervision.
  - (13) Details as to whether all of area will be developed or a portion at a time.
  - (14) Density intensity regulations in compliance with Table B, residential.
  - (15) Compliance with the required number of off-street parking spaces.
  - (16) All private streets shall be a minimum of 28 feet wide and constructed in accordance with the public improvements criteria manual. The layout of such private streets shall be subject to approval by the fire chief, to ensure adequate emergency access.
  - (17) All manufactured housing shall have a minimum frontage of 20 feet on public or private streets.
  - (18) Perimeter fences required: Minimum six feet in height, opaque material.
- (g) *Residential density bonus.* Within single-family residential developments, a maximum of ten percent reduction in square feet of site area per unit for residential developments of 20 units or more shall be permitted as a conditional use based upon the following bonus features and square foot reduction:

	Bonus Feature	Square Foot Reduction Per Unit
(1)	Major outdoor recreational facilities such as swimming pools, tennis courts or similar facilities requiring a substantial investment.	250 square feet
(2)	Designation of developed open space for semipublic use adjacent to designated public greenway corridors equal to an additional 100 square feet per unit.	100 square feet

- (3) All required developed open space must be operated and maintained by a homeowners association, subject to the conditions established in sections 106-676 (Property controls), 106-677 (Public services), 106-678 (Public services), and 106-679, with all documentation required to be submitted for filing in conjunction with the final plat.
  - (4) The density bonus shall only be permitted per designated open space or major outdoor recreational facilities in excess of the requirements established in section 12.00 et seq., of the subdivision ordinance, on file in the city secretary's office, including the credit given in section 12.02 for land dedicated by a developer within a development or subdivision for compensating open space on an acre per acre basis.
- (h) *Bed and breakfast* (as defined in sections 106-1 (Definitions) and 106-744 (Bed and breakfast)):
- (1) Bed and breakfast shall be operated in accordance with the bed and breakfast and home occupation requirements of section 106-749 (Home occupation).
  - (2) Additional required parking shall not be provided in any required front or side yard.
  - (3) Bed and breakfasts shall comply with the boardinghouse requirements of the currently adopted edition of the Standard Housing Code and Life Safety Code (NFPA 101).
- (i) *Additional multifamily regulations.*

- (1) *Screening.* A ten-foot opaque screen consisting of a combination of shrubs, fencing, and/or masonry wall must be created between multifamily residential developments adjacent to single-family residential developments.
  - a. *Location.* The required screen shall be located within the first ten feet of the building setback adjacent to the single-family residential district.
  - b. *Planting.* At the time of planting, the shrubs must be between four to six feet tall and create an opaque screen within one growing season.
    - i. All shrubs must be approved by planning department officials.
- (2) *Fencing.* Every multifamily development within the city shall have a perimeter fence located along all sides abutting or facing the right-of-way, as well as along all sides abutting or facing single-family residential developments.
  - a. *Construction, maintenance of fence or wall.* Every fence or wall herein shall be constructed and maintained as follows:
    - i. All fences shall be constructed of wood, masonry, or wrought iron.
    - ii. All fences or walls shall extend downward to within three inches of the ground and shall test plum and square at all times.
    - iii. All fences or walls shall be constructed in compliance with all applicable provisions of the building codes of the city.
  - b. *Gates at openings in enclosure.* Openings in the prescribed enclosure which are necessary to permit reasonable access to said multiple-family development shall be equipped with a gate or gates, constructed and maintained in accordance with the requirements for a fence or wall set forth in this section.
- (3) *Recreational areas, facilities, and open space.*
  - a. The open space requirements for townhouses, quadruplexes and multifamily developments shall include a combination of the following:
    - i. Trails,
    - ii. Playgrounds (except in the case of "Senior Only" developments),
    - iii. Clubhouses, and/or
    - iv. On-site detention pond areas (Playgrounds are not to be located in the detention pond areas.).
- (4) *Controlled access gates, if utilized:*
  - a. Shall be constructed set back from the street far enough to prevent traffic congestion from any vehicle traveling on the right-of-way adjacent to such controlled access gate, and
  - b. Must provide 24-hour access to emergency vehicles, including fire department, EMS, police department and utility company vehicles.
- (j) Group care facilities (aka community homes, residential personal care homes, living centers, assisted living centers and similar uses as identified in NAICS group #623 (Nursing and Residential Care Facilities)).
  - (1) Location: Facilities, in compliance with the Texas Human Resources Code (Ch. 123 and 105), Administrative Code (Ch. 92) and Health & Safety Code (Ch. 247, shall be permitted as a use-by-right in R-1 Low Density Residential, R-2 Mid Density Residential, R-3 High Density Residential, MH Manufactured Housing and LL Large Lot Districts.
  - (2) Distance Requirement: Group care facilities shall not be closer than 1,000 feet to a similar use (NAICS group #623). Measurement shall be from the nearest boundary of the sites on which they are located.

- (3) Signage: Group care facilities located within a residential neighborhood shall be allowed to have one (1) sign not exceeding two (2) square feet in area, non-illuminated and mounted flat against the wall of the principal building.
  - (4) Visual Compatibility: There shall be no change in the outside appearance of the building or premises. No structural alterations shall be permitted that will cause the group care facility to be substantially distinguishable from other surrounding residential properties.
  - (5) Registration Requirement: Facilities providing food & shelter to three (3) or less persons, who are unrelated to the proprietor of the establishment, shall comply with all city regulations and register their facility with the City annually by obtaining a Group Care Facility Certificate. The certificate cost shall be at the rate established in Appendix A, fees, of this Code, shall expire on December 31<sup>st</sup> of each year. Such fee shall be payable to the City on or before December 15<sup>th</sup> for the next succeeding calendar year. The fee provided for in this article shall not be subject to proration or reduction for payment for a period of less than twelve (12) calendar months. Operation of a facility without first having obtained the required certificate shall be deemed a violation of this article.
  - (6) Payment of Taxes: All ad valorem taxes on any and all property, personal or real, necessary to the operation of the facility must be paid prior to the issuance or renewal of the certificate.
  - (7) Display of Certificate: Every facility so registered shall display an active certificate in a conspicuous place, within the facility common area, so as to be easily seen by the public.
  - (8) Access to the Facility: City personnel shall have the right-of-entry to ensure safe habitability and public safety. City personnel shall advise on-site facility personnel of the purpose of their visit.
  - (9) Annual Inspection: The Fire Marshal's Office shall perform a minimum of one (1) annual inspection for each group care facility. Facilities shall comply with all applicable city codes, ordinances, policies and regulations.
- (k) Facilities shall be in compliance with the Texas Human Resources Code (Ch. 123 and 105), Administrative Code (Ch. 92) and Health & Safety Code (Ch. 247). To ensure compliance with state regulations, a copy of the facility's active State license shall be provided to the City, when requested by staff.

**Secs. 106-335—106-350. Reserved.**

## **Subdivision II. R-1 Low Density Residential District**

### **Sec. 106-351. Purpose.**

- (a) The R-1 low density residential district is the most restrictive district.
- (b) The principal use of land in this district is for low density, single-family detached dwellings and related recreational, religious and educational facilities normally required to provide the elements of a balanced, orderly, convenient and attractive residential area. The following regulations shall apply to all R-1 districts.

### **Sec. 106-352. Permitted, accessory, and special conditional uses.**

Refer to section 106-331 (Table A, residential uses).

### **Sec. 106-353. Density/intensity regulations.**

Refer to section 106-333 (Table B, residential area requirements).

**Sec. 106-354. Special regulations and procedures.**

Refer to articles IV, V, VI and VII of this chapter.

**Secs. 106-355—106-370. Reserved.**

**Subdivision III. R-2 MID Density Residential District**

**Sec. 106-371. Purpose.**

The R-2 mid density residential district is intended to provide for medium density, single-family attached or detached dwellings and multiple-family dwellings which may have a relatively intense concentration of dwelling units served by open spaces and other common areas. The district also provides the religious, recreational and educational uses normally associated with residential areas. The following regulations shall apply in all R-2 districts.

**Sec. 106-372. Permitted, accessory and special conditional uses.**

Refer to section 106-331 (Table A, residential uses).

**Sec. 106-373. Density/intensity regulations.**

Refer to section 106-333 (Table B, residential area requirements).

**Sec. 106-374. Special regulations and procedures.**

Refer to articles IV, V, VI and VII of this chapter.

**Secs. 106-375—106-390. Reserved.**

**Subdivision IV. R-3 High Density Residential District**

**Sec. 106-391. Purpose.**

The R-3 high density residential district is the highest density residential district. Its principal purpose is to provide a wide variety of dwelling types including single-family dwellings, multiple-family dwellings, garden apartments, condominiums and townhouses. It provides the religious, recreational and educational uses normally associated with residential areas. The following regulations shall apply in all R-3 districts.

**Sec. 106-392. Permitted, accessory, and special conditional uses.**

Refer to section 106-331 (Table A, residential uses).

**Sec. 106-393. Density/intensity regulations.**

Refer to section 106-333 (Table B, residential area requirements).

### **Sec. 106-394. Special regulations and procedures.**

- (a) Refer to articles IV, V, VI and VII of this chapter, and refer to section 106-5334(i).
- (b) All multifamily developments with residential units more than 200 feet from a public street must meet the following private street design criteria:
  - (1) *Purpose.* The purpose for the regulation of private streets and the standards established in this section are:
    - a. To provide adequate vehicular access to all buildings and facilities by city police, fire, and solid waste department vehicles; and
    - b. To provide for the safe movement of all vehicles from a private street to the public street system of the city.
  - (2) *Location.* All portions of residential buildings must be within a 300-foot length, measured horizontally as a fire hose would lay, from a public or private street.
  - (3) *Width.* The width of a private street shall be measured from edge to edge across the surface of the pavement. The right-of-way width and the pavement width of a private street are considered coterminous and the terms are used interchangeably. The minimum acceptable unobstructed width of any private street is 28 feet. If parallel parking is proposed along the private street, additional width may be required to accommodate such parking.
  - (4) *Dead ends, culs-de-sac, and T or L-type turnarounds.* Dead end private streets must be terminated by a circular cul-de-sac having a paving radius of not less than 40 feet or a T or L-type turnaround designed in conformance with the standards approved by the director.
  - (5) *Length of culs-de-sac or dead end private streets.* Dead end private streets must not extend further than 300 feet from the nearest right-of-way line of the intersecting public or private street measured along the centerline of said private street to the center of the cul-de-sac or the outer limit of the paving in the T or L-type configuration.
  - (6) *Construction.* All private streets shall be constructed in conformance with the public improvements criteria manual.
- (c) Points of entry/exit: All multi-family developments shall contain a minimum of two points of entry for ingress and egress of vehicle traffic from adjacent public rights-of-way and thoroughfares.

### **Secs. 106-395—106-410. Reserved.**

## **Subdivision V. MH Manufactured Housing District**

### **Sec. 106-411. Purpose.**

- (a) The MH manufactured housing district is intended to provide for manufactured housing communities, (parks, subdivisions, or condominiums). Within such developments, manufactured housing communities (with such additional uses and occupancies as are permitted herein) may be established subject to the requirements and limitations set forth in these and other regulations. Other residential and supporting uses may also be permitted in such districts.
- (b) It is intended that such manufactured housing communities shall be so located, designed, and improved as to provide a desirable residential environment, protection from potentially adverse neighboring influences, protection for adjacent residential properties, access for vehicular traffic without traversing minor streets in adjoining residential neighborhoods, and accessibility equivalent to that for other forms of permitted residential development to public facilities, places of employment, and facilities for meeting commercial and service needs not met within the manufactured housing community.

**Sec. 106-412. Permitted, accessory, and special conditional uses.**

Refer to section 106-331 (Table A, residential uses).

**Sec. 106-413. Density/intensity regulations.**

Refer to section 106-333 (Table B, residential area requirements).

**Sec. 106-414. Special regulations.**

Refer to articles IV, V, VI and VII of this chapter.

**Sec. 106-415. Other regulations.**

Refer to city Development Ordinance Number 1444 on file in the city secretary's office and chapter 98.Subdivision VI. LL Large Lot District

**Sec. 106-416. Special regulations.**

(a)	Minimum lot size:	1 Acre
(b)	Minimum lot width:	90 L.F.
(c)	Minimum yard setbacks (F.R.S.):	25-15-5
(d)	Maximum height of primary structure:	45 feet
(e)	Minimum site area/unit:	1 DU/A
(f)	Maximum lot coverage:	40%
(g)	Accessory buildings:	See Section 106-741 (e)(2) (General provisions)
(h)	Maximum height of accessory buildings:	35 feet
(i)	Accessory building setbacks:	See Section 106-741 (e)(2) (General provisions)
(j)	Number of accessory buildings:	Up to 40% coverage
(k)	Placement of accessory buildings:	Rear & side yards
(l)	Number of animals:	Section 106-742 (Domestic livestock)
(m)	Detached garage:	6' (rear) of Primary Bldg.

(n)	Carports width:	Max. 25' front/side yard
(o)	Equipment storage:	Section 106-741(h) (General provisions)
(p)	Exterior storage:	Section 106-773 (Exterior storage)
(q)	Shipping containers:	Not allowed
(r)	Street openings:	Asphalt/open ditch
(s)	Driveways (General):	Service 4 one residence only; 20 foot maximum width
(t)	Public utilities (water):	Tap public ROW only
(u)	Public utilities (sewer):	Tap public ROW only
(v)	Fire hydrant (coverage):	500' from residence
(w)	Fire hydrant (placement):	Public waterline only
(x)	Animal breeding: (FFA & 4H)	Conditional (Requires SCUP from the City)

**Secs. 106-417—106-440. Reserved.**

### **DIVISION 3. COMMERCIAL DISTRICT REGULATIONS**

#### **Subdivision I. Generally**

**Sec. 106-441. Commercial uses.**

Refer to Section 106-310, Table A, Commercial and Industrial Uses

**Sec. 106-442. Interpretation and enforcement.**

Property uses, except as provided for by Section 106-310 (Table A, commercial & industrial uses) Table A, are prohibited and constitute a violation of this chapter.

**Sec. 106-443. Table A, commercial area requirements.**

(a) *Table A, Commercial area requirements.*

Uses	Minimum Landscaping Requirements	Maximum Lot Coverage	Minimum Yard Setbacks F.R.S. 1, 3, 4, 6, 7	Adjacent to Residential Minimum Yard Setback F.R.S. 2, 6	Maximum Height (feet) <sup>9</sup>	Bldg. Design Standards <sup>8</sup>
R-3 uses (permitted) except residential single-family, detached and special lot, duplexes, quadruplexes, townhouses, and multifamily	5% <sup>5</sup>	Density intensity regulations specified in section 106-333 (Table B, residential area requirements) <sup>9</sup>				
NC Neighborhood Comm.; all permitted or conditional	5% <sup>5</sup>	50%	20-10-0	20-10-10	N/A <sup>9</sup>	Design Guidelines <sup>8</sup>
GC General Comm.; all permitted or conditional	5 % up to one acre – four foot minimum frontage <sup>5</sup>  7.5 % one acre – 10 acres – 10 foot minimum frontage <sup>5</sup>  10 % - greater than 10 acres – 25 foot minimum frontage <sup>5</sup>	40%	20-10-0	20-20-10	N/A <sup>9</sup>	Design Guidelines <sup>8</sup>
Outside sales or services	5% <sup>2</sup>	N/A	5-5-5	Same as principal use	N/A	
Outside storage	See section 106-444(b) (Special use performance standards)	N/A	20-10-5	Same as principal use	N/A	
Freestanding on-	See article VII of this chapter					



premises signs						
Freestanding on-premises signs located in controlled access highway corridors	See article VII of this chapter					
MU, Mixed Use; all permitted or conditional:						
Single family detached residential uses	N/A	60%	15 min to 25 max-10-5	N/A	35	N/A
Commercial and/or mixed residential and commercial	5% - four foot minimum frontage <sup>5</sup>	60%	15 min to 25 max-10-5	N/A	35	Design Guidelines <sup>7</sup>
Main Street	5 % - four foot minimum frontage <sup>5</sup>	60%	*-20-5	N/A	36	Design Guidelines <sup>7</sup>
Main Street Overlay	N/A	84%	0-20-0	N/A	36	Design Guidelines <sup>7</sup>

(b) *Footnotes to Table B.*

- 1 A minimum landscape setback of 20 feet will be required adjacent to all designated conservation areas. Buildings, parking areas, loading docks, outside storage, and refuse containers will not be allowed in such setback areas. A planting plan is required to be submitted and approved by the enforcing officer. These areas are to be landscaped with trees, shrubs, and groundcover. Required landscaping must be maintained by the property owner and/or occupant.
- 2 Screening is required in conformance with section 106-444(a) (Special use performance standards).
- 3 All yards adjacent to public right-of-way must be a minimum of ten feet.
- 4 The minimum setback adjacent to any utility easement shall be three feet.
- 5 Additionally, reference section 106-800 (Landscaping).
- 6 No sign shall be located in a sight triangle so as to obstruct traffic visibility at a level between three feet and six feet as measured above adjacent road grade.
- 7 a) Refer to Article IX for design guidelines.  
b) \*Within the Main Street District, excluding those principal structures in the Overlay, the front yard is the average of the existing structures on that side of the street on the same side of the street or the setback of the closest structure on an adjacent lot. This applies to the primary

structure only. Any accessory buildings must be a minimum of six feet from the main structure, but may be zero feet from any lot lines.

8 Refer to Article IX for design guidelines.

9 Maximum allowable height is 30 feet for structures within all commercial zoned properties, (including R-2 and R-3 uses therein), when the proposed building is located within 120 feet of the property line for any R-1 and LL zoned properties.

#### **Sec. 106-444. Commercial performance standards.**

(a) *Screening.* Screening is required when located adjacent to a residential zone district. No buildings or refuse containers shall be placed in such areas. One of the following screening options is required:

(1) Landscape buffer

- a. Minimum four-foot wide planting strip is required adjacent to any adjacent residential property.
- b. Plantings shall consist of a combination of shade trees and low evergreen shrubs.
- c. Shrub planting shall be a minimum of four feet in height at the time of planting and must reach a height of six feet within two years.
- d. There shall be at least one shade tree planted for every 20 linear feet in accordance with the size requirements in Section 106-800 (Landscaping).
- e. The number and density of plantings shall be sufficient to provide a minimum 6-foot high solid screen within two years of normal growth.
- f. The landscape buffer is required to be maintained by the property owner and/or occupant in such a manner as to meet these requirements.

(2) Fence buffer

- a. A minimum four-foot wide planting strip is required adjacent to any adjacent residential property.
- b. Fence must be a minimum of six feet in height and constructed of solid wood, masonry or other material approved by the Director of Planning and Development.
- c. One shade tree is required to be planted for every 20 linear foot in accordance with the size requirements in Section 106-800 (Landscaping).

(b) *Outdoor storage.* Open and outdoor storage as an accessory or principal use provided that:

- (1) The area is screened from view of neighboring residential uses or an abutting residential district in compliance with section 106-444(a) (Special use performance standards).
- (2) Storage is screened from view from the public right-of-way in compliance with section 106-444(a) (Special use performance standards).
- (3) Storage area is grassed or surfaced to control dust.
- (4) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with section 106-310 footnote A (Lighting and glare).

(c) *Outdoor sales/service.* Open or outdoor service, sale and rental as a principal or an accessory use and including sales in or from motorized vehicles, trailers, or wagons provided that:

- (1) Accessory outside service, sales and equipment rental connected with a principal use is limited to 30 percent of the gross floor area of the principal use.

- (2) Outside sales areas are fenced or screened from view of neighboring residential uses or an abutting residential district in compliance with section 106-444(a) (Special use performance standards).
  - (3) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with section 106-310 footnote A (Lighting and glare).
  - (4) A landscape buffer shall be maintained between all outdoor sales and service areas and adjacent public rights-of-way. Landscape buffers shall be designed in accordance with the requirements of Article V, Division 4 (Fencing and Landscaping Requirements).
- (d) *Traffic control.* The traffic generated by a use shall be channelized and controlled in a manner that will avoid congestion on public streets, safety hazards or excessive traffic through residential areas. The traffic generated will not raise traffic volumes beyond the capacity of the surrounding streets. Vehicular access points shall be limited, shall create a minimum of conflict with through traffic movements, and shall be subject to the approval of Director of Planning and Development. Vehicular ingress lanes shall be large enough to accommodate peak use on the same lot without requiring the stopping or waiting of vehicles on public right-of-ways. Ingress lanes shall be from the least heavily travelled street wherever possible.
- (e) *Off-site parking.*
- (1) Any off-site parking which is used to meet the requirements of this chapter shall be required to meet the following conditions:
    - a. Such off-site parking shall comply with all parking standards stated in this chapter, including Article VI (Off-street parking).
    - b. Reasonable access from off-site parking facilities to the use served shall be provided.
    - c. Such off-site parking shall be within 300 feet of the use served.
  - (2) Any use which depends upon off-site parking to meet the requirements of this chapter shall maintain the minimum number of required parking spaces or cease operation and use until such time as there is full compliance with the requirements of this chapter.
  - (3) Whenever required parking facilities are on a lot or parcel of land other than the principal building which is to be served, a properly drawn legal instrument, executed by the parties concerned, duly approved as to form and manner of execution by the city attorney, shall be filed with the city secretary.
- (f) *Joint parking.* The city council after receiving a report and recommendation from the planning and zoning commission, may approve a conditional use permit for one or more businesses to provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. When considering a request for such a permit, the planning and zoning commission shall not recommend that such permit be granted nor the council approve such a permit except when the following conditions are found to exist:
- (1) Up to 50 percent of the parking facilities required for a theater, bowling alley, dance hall, bar, restaurant or similar use as determined by the planning and zoning commission may be supplied by the off-street parking facilities provided by types of uses specified as primarily daytime uses in subsection d of this section.
  - (2) Up to 50 percent of the off-street parking facilities required for any use specified under subsection d of this section as primary daytime uses may be supplied by the parking facilities provided by the following nighttime or Sunday uses: Auditoriums incidental to all public or parochial schools, churches, bowling alleys, dance halls, theaters, bars, restaurants or similar uses as determined by the planning and zoning commission.
  - (3) Up to 80 percent of the parking facilities required by this section for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking

facilities provided by uses specified under subsection d of this section as primary daytime uses as determined by the city planning and zoning commission.

- (4) For the purpose of this section, the following uses are considered as primary daytime uses: Banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing, shoe repair or service shops, manufacturing, wholesale and similar uses as determined by the planning and zoning commission.
- (5) Conditions required for joint use:
  - a. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of such parking facilities.
  - b. The applicant shall show that there is no substantial conflict in the principle operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
  - c. A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly authorized as to form and manner of execution by the city attorney, shall be filed and recorded in the county deed records.

**Secs. 106-445—106-475. Reserved.**

## **Subdivision II. NC Neighborhood Commercial District**

### **Sec. 106-476. Purpose.**

The purpose of the NC neighborhood commercial district is to provide for the establishment of local centers for convenient, limited office retail or service outlines which deal directly with the customer for whom the goods or services are furnished. These centers are to provide services and goods only for the surrounding neighborhoods and are not intended to draw customers from the entire community.

### **Sec. 106-477. Permitted, accessory, and special conditional uses.**

Refer to Section 106-310 (Table A, commercial and industrial uses)

### **Sec. 106-478. Density/intensity regulations.**

Refer to section 106-443 (Table B, commercial area requirements).

### **Sec. 106-479. Special regulations and procedures.**

Refer to articles IV, V, VI and VII of this chapter.

**Sec. 106-480. Artisan Shop.**

Maximum 1,000 square feet allowed for the retail component.

**Secs. 106-481—106-495. Reserved.**

**Subdivision III. GC General Commercial District**

**Sec. 106-496. Purpose.**

The purpose of the GC general commercial district is to provide for low intensity, retail or service outlets which deal directly with the customer for whom the foods or services are furnished. The uses allowed in this district are to provide goods and services on a community market scale and located in areas which are well served by collector or arterial street facilities.

**Sec. 106-497. Permitted, accessory, and special conditional uses.**

Refer to Section 106-310 (Table A, commercial and industrial uses)

**Sec. 106-498. Density/intensity regulations.**

Refer to section 106-443 (Table B, commercial area requirements).

**Sec. 106-499. Special regulations and procedures.**

Refer to articles IV, V, VI and VII of this chapter.

**Section 106-500. Artisan shop.**

Maximum 2,500 square feet for the retail component.

**Secs. 106-501—106-509. Reserved.**

**Subdivision IV. Main Street District With Overlay**

**Sec. 106-510. Purpose; Main Street district; Main Street overlay district defined.**

The purpose of the Main Street district is to preserve the character of the original Main Street area of La Porte. The intent of a Main Street district within an overlay area is to allow greater flexibility of normal city requirements and create an environment reflective of an era when travel was based less on vehicular traffic and more on pedestrian access with retail trade more closely clustered.

**Sec. 106-511. Permitted, accessory, and special conditional uses.**

- (a) Commercial and all residential activities are permitted, as indicated in Section 106-310 Table A, Main Street Overlay uses.

- (b) Main Street overlay maximum 5000 square feet per floor.
- (c) No outdoor storage within the Main Street Overlay between Highway 146 and Virginia.
- (d) Within the Main Street Overlay, residential activities are only allowed above the first floor.
- (e) Single family detached is prohibited in Main Street Overlay, but permitted in Main Street District.

**Sec. 106-512. Density/intensity regulations.**

Refer to Table B, Main Street overlay requirements, section 106-443 (Table B, commercial area requirements)

**Sec. 106-513. Special regulations and procedures.**

For new construction no customer parking is required; however, businesses are required to provide a minimum of two employee parking spaces. Also for new construction, no parking lots shall be developed in front of the building within the overlay portion of the Main Street district. Alley ways within the district shall be considered as driving aisles for the purposes of parking requirements.

Refer to section 106-752 (Dumpster enclosures)

Property owners are not required to install sidewalks within the district.

Refer to articles IV, V, VI, VII and IX of this chapter for further regulations and procedures.

**Sec. 106-514. Artisan shop.**

Maximum 2,500 square feet for the retail component.

**Subdivision V. Mixed Use District**

**Sec. 106-515. Purpose.**

The purpose of the Mixed Use District is to accommodate, encourage and promote innovatively designed developments involving neighborhood-serving residential and commercial land uses. The regulations of this district are intended to allow for residential and limited commercial uses scaled in such a manner as to complement the immediate neighborhood. The district regulations allow flexibility and encourage more creative, efficient and aesthetically desirable design and placement of land uses.

**Sec. 106-516. Permitted, accessory, and special conditional uses.**

Limited commercial and all residential activities including a mix of residential and commercial uses are permitted in the Mixed Use District, as indicated in section 106-310 (Table A, commercial and industrial uses).

**Sec. 106-517. Density/intensity regulations.**

Refer to the requirements for Mixed Use District as indicated in section 106-443 (Table B, commercial area requirements).

**Sec. 106-518. Special regulations and procedures.**

Refer to articles IV, V, VI and VII of this chapter for additional regulations and procedures.

For commercial uses, a minimum of 4 parking spaces is required. Such parking may cover no more than 30 percent of the lot. Parking may be permitted in the right-of-way if approved by the Director of Planning and Development.

**Sec. 106-519-106-520. Reserved.**

**DIVISION 4. INDUSTRIAL DISTRICT REGULATIONS**

**Subdivision I. Generally**

**Sec. 106-521. Industrial Uses.**

*Interpretation and enforcement.* Property uses, except as provided for by section 106-310 (Table A, commercial and industrial uses) are prohibited and constitute a violation of this chapter.

**Sec. 106-522. Table A, Industrial area requirements.**

(a) *Table A, industrial area requirements.*

Uses	Minimum Landscaping Requirements (percent) <sup>4</sup>	Maximum Lot Coverage (percent)	Minimum Yard Setbacks F.R.S. <sup>1, 3, 5</sup> (feet)	Adjacent to Residential Minimum Yard Setback F.R.S. <sup>2, 5, 9</sup> (feet)	Maximum Height <sup>6</sup> (feet)	Bldg. Design Standards <sup>10</sup>
BI business-industrial; all permitted or conditional	<p>6</p> <p>5 % up to one acre – four foot minimum frontage</p> <p>7.5 % one acre – 10 acres – 10 foot minimum frontage</p> <p>10 % - greater than 10 acres – 25 foot minimum frontage</p>	50	20-10-10	50-40-30	N/A	Design Standards, Article IX <sup>10</sup>
LI light industrial district; all permitted	5 % up to one acre – four foot	<a href="#">70</a>	20-10-10	30-50-50	N/A	

or conditional	<p>minimum frontage</p> <p>7.5 % one acre – 10 acres – 10 foot minimum frontage</p> <p>10 % - greater than 10 acres – 25 foot minimum frontage</p>					
HI heavy industrial district all permitted or conditional	<p>6</p> <p>5 % up to one acre – four foot minimum frontage</p> <p>7.5 % one acre – 10 acres – 10 foot minimum frontage</p> <p>10 % - greater than 10 acres – 25 foot minimum frontage</p>	30	50-50-30	100-150-150	45	
Loading docks	N/A	N/A	130-130-130	Same as principal use plus 130 ft.	N/A	
Outside storage	N/A	N/A	20-10-5	Same as principal use	<u>Section 106-444(b)</u>	
Truck stops	15%	50	50-40-30	50-40-30		
Shipping containers	15%	N/A	50-50-30	100-150-150	36 <sup>7,8</sup>	
On- and off-premises freestanding signs	See article VII of this chapter					
Freestanding on-premises signs located in controlled access highway corridors	See article VII of this chapter					



(b) *Footnotes.*

1. A minimum landscape setback of 20 feet will be required adjacent to all designated conservation areas. Buildings, parking areas, loading docks, outside storage, and refuse containers will not be allowed in such setback areas. These areas are to be landscaped with trees, shrubs, and ground cover, with a planting plan required to be submitted and approved by the enforcement officer. Required landscaping must be maintained by the property owner and/or occupant.
2. No buildings, parking areas, loading docks, outside storage, or refuse containers will be allowed in such setback areas. These areas are to be landscaped with trees, shrubs and ground cover, with a planting plan required to be submitted and approved by the enforcement officer.
3. Side and rear yard setbacks may be reduced to zero if adjacent to railroad right-of-way, or rail service spurs.
4. See article V, division 4 (Fencing and landscaping requirements) for additional requirements.
5. No sign shall be located in a required visibility triangle in such a manner as to obstruct traffic visibility at a level between three feet and six feet as measured above adjacent road grade. See section 106-805 (Visibility triangles).
6. Height restrictions may be modified as a conditional use, provided that no modification of height restrictions may occur adjacent to property zoned residential or commercial. Provided further that no modification shall be permitted if said modification would pose a danger to life or property. See section 106-772 (Height requirements).
7. Shipping containers are permitted to be stacked up to four containers in height. See section 106-751 (Shipping containers used for storage).
8. Shipping containers will be stacked in a 'pyramid' appearance along the front of the site. The initial row shall not exceed two containers in height, with each successive interior row gaining one container in height to a maximum of four containers in height. For the sides beyond the front area, the 'pyramid' appearance shall not be required.
9. Screening will be required adjacent to residential in accordance with the provisions of section 106-444(a) (Commercial performance standards).
10. See article IX (Design standards) for additional requirements.

**Sec. 106-523. Industrial performance standards.**

- (a) *Traffic control.* The traffic generated by a use shall be channelized and controlled in a manner that will avoid congestion on public streets, safety hazards or excessive traffic through residential areas. The traffic generated will not raise traffic volumes beyond the capacity of the surrounding streets. Vehicular access points shall be limited, shall create a minimum of conflict with traffic movements, and shall be subject to the approval of the Director of Planning & Development. Vehicular ingress lanes shall be large enough to accommodate peak use on the same lot without requiring the stopping or waiting of vehicles on public rights-of-way. Ingress lanes shall be from the least heavily travelled street wherever possible.
- (b) *Drainage.* On request, a drainage plan for the proposed development shall be submitted to the Director of Planning & Development for review and approval.
- (c) *Compatibility with surrounding area.* The appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence within a reasonable distance of the lot. The proposed development shall be compatible with existing and planned use of the area and conflicts shall not be created between the proposed use and existing and intended future uses of the surrounding area.

- (d) *Required licenses obtained.* All necessary governmental permits and licenses shall be secured with evidence of such placed on record with the city.
- (e) *Availability and adequacy of public services.* Public services including but not limited to sewer, water, gas, police and fire protection are available at an adequate level and capable to service the proposed land use. The planning and zoning commission and the city council may impose any necessary conditions or restrictions upon the proposed land use to insure that an overloading of city system does not occur and that inordinate demand on public services does not jeopardize or limit existing and protected public services demands.
- (f) *Loading berths.* Loading berths located on the front or at the side of buildings on a corner lot shall be required to meet the following conditions:
  - (1) Loading berths shall not conflict with pedestrian movement.
  - (2) Loading berths shall not obstruct the view of the public right-of-way from off-street parking access.
- (g) *Location of sexually oriented businesses.*
  - (1) A person commits an offense if he operates or causes to operate a sexually oriented business within 1,000 feet (as measured below) of any of the following, whether located within or outside the corporate limits of the city:
    - a. A boundary of a residential district;
    - b. The property line of a lot devoted to a residential use;
    - c. A church;
    - d. A school;
    - e. A day care or kindergarten; or
    - f. A public park or playground.
  - (2) For the purposes of subsection (g)(1) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line used as part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, school, day care or kindergarten, or to the nearest boundary of an affected public park or playground, residential district, or lot devoted to a residential use.
  - (3) A person commits an offense if he or she operates or establishes, or causes or permits another to operate or establish a sexually oriented business which is located within 1,000 feet of another sexually oriented business. The distance between two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the nearest property line used as part of the premises where a sexually oriented business is conducted to the nearest property line of another sexually oriented business.
  - (4) A person commits an offense if he causes or permits the operation, establishment, or maintenance or more than one sexually oriented business in the same building, structure, or portion thereof.

**Secs. 106-524—106-540. Reserved.**

## **Subdivision II. BI Business Industrial District**

### **Sec. 106-541. Purpose.**

The purpose of the business/industrial district is to provide for the establishment of industrial development that is compatible with surrounding or abutting residential districts and to encourage high

level performance standards. Development in the business/industrial district is limited to administrative, wholesaling, manufacturing and related compatible uses, with suitable open spaces, landscaping and parking areas.

**Sec. 106-542. Permitted, accessory and special conditional uses.**

Refer to Section 106-310 (Table A, commercial and industrial uses).

**Sec. 106-543. Density/intensity regulations.**

Refer to [section 106-522](#) (Table B, industrial area requirements).

**Sec. 106-544. Regulations and procedures.**

- (a) Refer to articles IV (planned unit developments), V (supplementary district regulations), VI (off-street parking) and VII (signs) of this chapter.
- (b) Refer to article II, division 4 (permits).
- (c) Refer to article VI (Off-street parking).
- (d) Refer to article V, division 3 (Area requirements) and 4 (Fencing and landscaping requirements).

**Secs. 106-545—106-560. Reserved.**

**Subdivision III. LI Light Industrial District**

**Sec. 106-561. Purpose.**

The purpose of the LI light industrial district is to provide for the establishment of warehousing and light industrial development.

**Sec. 106-562. Permitted, accessory, and special conditional uses.**

Refer to Section 106-310 (Table A, commercial and industrial uses).

**Sec. 106-563. Density/intensity regulations.**

Refer to section 106-522 (Table B, industrial area requirements).

**Sec. 106-564. Regulations and procedures.**

- (a) Refer to Articles IV, V, VI and VII of this chapter.
- (b) Refer to article II, division 4 (Permits).
- (c) Refer to article VI (Off-street parking).
- (d) Refer to article V, division 3 (Area requirements) and 4 (Fencing and landscaping requirements).

**Secs. 106-565—106-580. Reserved.**

#### **Subdivision IV. HI Heavy Industrial District**

**Sec. 106-581. Purpose.**

The purpose of the HI heavy industrial district is to provide for the establishment of heavy industrial and manufacturing development and use which because of the nature of the product or character of activity requires isolation from residential or commercial use.

**Sec. 106-582. Permitted, accessory and special conditional uses.**

Refer to Section 106-310 (Table A, commercial and industrial uses).

**Sec. 106-583. Density/intensity regulations.**

Refer to section 106-522 (Table B, industrial area requirements).

**Sec. 106-584. Regulations and procedures.**

- (a) Refer to articles IV, V, VI and VII of this chapter.
- (b) Refer to article II, division 4 (Permits).
- (c) Refer to article VI (Off-street parking).
- (d) Refer to article V, division 3 (Area requirements) and 4 (Fencing and landscaping requirements).

**Secs. 106-585—106-620. Reserved.**

### **ARTICLE IV. PLANNED UNIT DEVELOPMENTS**

#### **DIVISION 1. GENERALLY**

**Secs. 106-621—106-635. Reserved.**

#### **DIVISION 2. ADMINISTRATION**

**Sec. 106-636. Planned unit development procedures.**

The planned unit development procedures are intended to be used in two ways. First, for any development in a district that meets all the use requirements (for example, multifamily residential in a R-3 zone) that may not be able to meet the minimum lot area or setback criteria because of the type of neighborhood the developer envisions; or second, to regulate the second phase of submission in the planned unit development zone. (Refer to section 106-656, (Purpose and intent) (et seq.)

**Sec. 106-637. Procedures for establishing a planned unit development and subsequent review.**

- (a) An application for a conditional use permit shall be filed and processed based upon procedures established by sections 106-216 (General conditions for all conditional uses in all zoning districts), 106-217 (Conditions for approval), and 106-218 (Amendments).
- (b) An application for a major development site plan, minor development site plan, or preliminary plat shall be filed and processed simultaneously with the conditional use permit and shall be subject to the requirements of the city development ordinance number 1444 on file in the city secretary's office.
- (c) Submittal and filing of the major or minor development site plan or preliminary plat shall be in accordance with the requirements of the development ordinance number 1444 on file in the city secretary's office and shall contain (in addition to the requirements of the development ordinance number 1444 on file in the city secretary's office) the following information:
  - (1) The entire outline, overall dimensions and area of the tract described in the application.
  - (2) The use, zoning and ownership of all adjacent properties within 100 feet of the tract boundaries including the location of all structures thereon and the right-of-way widths of all adjacent public roadways.
  - (3) The existing and proposed topography of the tract with contour intervals not greater than one foot.
  - (4) The location, general exterior dimensions and approximate gross floor areas of all proposed buildings, or where appropriate, examples of housing units to be built on lots.
  - (5) The type of each use proposed to occupy each building and the approximate amount of building floor area devoted to each separate use, if appropriate.
  - (6) The proposed location, arrangement and number of automobile parking stalls, or appropriate examples for each housing type.
  - (7) The proposed location, arrangement and general dimensions of all truck loading facilities, if appropriate.
  - (8) The location and dimensions of all vehicular entrances, exits and driveways and their relationship to all existing or proposed district or development examples for each housing type.
  - (9) The location and dimensions of all walls, fences, and plantings designed to screen the proposed district or development from adjacent uses.
  - (10) The general drainage system.
  - (11) Standards for exterior signs, architectural style, landscape concepts, and other variables which will be controlled in the design of buildings in the development area.
  - (12) Proposed exterior architectural elevations illustrating the basic design elements and material appearances.
- (d) The applicant shall submit a proposed schedule of construction. If the construction of the proposed planned unit development is to be in stages, then the components contained in each stage must be clearly delineated. In addition, the developer or subdivider must submit a general plan in accordance with the requirements of the city development ordinance number 1444 on file in the city secretary's office. The general plan shall be submitted prior to the submission of a development site plan or preliminary plat, as the case may be. The development schedule shall indicate the approximate starting date and the approximate completion date of the complete development plan.
- (e) A draft of all proposed deed restrictions, assessments, and covenants shall be filed clearly delineating responsibility for maintenance and control of public and private property, and common areas.

- (f) Review and evaluation criteria. The city planning and zoning commission shall review and recommend to the city council who shall evaluate and decide based on the following criteria:
- (1) Adequate property control is provided to protect the individual owners' rights and property values and the public responsibility for maintenance and upkeep.
  - (2) The interior circulation plan plus access from and onto public right-of-way does not create congestion or dangers and is adequate for the safety of the project residents and general public.
  - (3) A sufficient amount of usable open space is provided, in general conformance with the open space requirements outlined for each particular use classification in this chapter.
  - (4) That the arrangement of buildings, structures and accessory uses does not unreasonably disturb the privacy or property values of the surrounding residential uses.
  - (5) Acoustical controls for interior areas and facilities are at minimum in compliance with the current standards of the Building Code of the city.
  - (6) The architectural design of the project is compatible with the surrounding area.
  - (7) The drainage and utility system plans are submitted to the director and the final drainage and utility plans shall be subject to his approval.
  - (8) The development schedule ensures a logical development of the site which will protect the public interest and conserve the land.
  - (9) The development is in compliance with the requirements of the city development ordinance number 1444 on file in the city secretary's office.
  - (10) Dwelling unit and accessory use requirements are in general compliance with the district provisions in which the development is planned.
  - (11) The provisions of sections 106-216 (General conditions for all conditional uses in all zoning districts), 106-217 (Conditions for approval), and 106-218 (Amendments) are considered and satisfactorily met.
- (g) Final planned unit development plan. The approved general plan, major development site plan, minor development site plan, or preliminary plat, together with all conditions, covenants, deed restrictions, dedications, controls, and conditional use permits that are part thereof, shall be known as the final planned unit development plan and shall become a part of the official file of the city.
- (h) Notwithstanding anything else in this chapter to the contrary, no building permit, nor a development authorization (as said terms are defined in the development ordinance number 1444 on file in the city secretary's office) shall be issued until all required general plans, development site plans, preliminary plats, or conditional use permits have been approved by the appropriate approving authorities, as said authorities are defined in the development ordinance number 1444 on file in the city secretary's office and this chapter.

**Secs. 106-638—106-655. Reserved.**

### **DIVISION 3. DISTRICT REGULATIONS**

#### **Sec. 106-656. Purpose and intent.**

The purpose of this district is to provide for the grouping of land parcels for development as an integrated coordinated unit as opposed to traditional parcel by parcel, piecemeal, sporadic and unplanned approach to development. This section is intended to introduce flexibility of site design and architecture for the conservation of land and open space through clustering of buildings and activities through conditional use provisions. It is further intended that planned unit developments are to be characterized by central management, integrated planning and architecture, joint or common use of parking,

maintenance of open space and other similar facilities, and a harmonious selection and efficient distribution of uses.

**Sec. 106-657. Permitted, accessory and special conditional uses.**

All uses permitted in the residential, commercial, and industrial districts.

**Sec. 106-658. Density/intensity regulations.**

Based on conditions established under this section and those established under section 106-636; (Planned unit development procedures).

**Sec. 106-659. Special regulations and procedures.**

(a) *Procedure for establishing or developing a planned unit development district development.*

- (1) An application for a conditional use permit shall be filed and processed based upon procedures established by sections 106-216 (General conditions for all conditional uses in all zoning districts), 106-217 (Conditions for approval), and 106-218 (Amendments).
- (2) An application for a general plan shall be filed and processed simultaneously with the conditional use permit and shall be subject to the requirements of this chapter and the city development ordinance number 1444 on file in the city secretary's office.
- (3) Submittal and filing of the general plan shall be according to the development ordinance number 1444 on file in the city secretary's office and shall contain, in addition to the requirements of the development ordinance number 1444 on file in the city secretary's office, the following information:

General area wide development plan (general outline of the site and surrounding area).

- a. Uses.
- b. Zoning.
- c. Streets.
- d. Grade or topography.
- e. Density.
- f. Utilities and drainage.

- (4) The applicant shall submit a proposed schedule of construction. If the construction of the proposed planned unit development is to be in stages, then the components contained in each stage must be clearly delineated. The development schedule shall indicate the approximate starting date and the completion date of the complete development plan.
- (5) A written description shall be submitted documenting the type of property control that will be utilized to administer, control and maintain any common open space or areas.

(b) *Review and evaluation criteria.* The city planning and zoning commission shall review and recommend to the city council who shall evaluate and decide based on the following criteria:

- (1) Adequate property control is proposed to protect the individual owners; rights and property values, and the public responsibility for maintenance and upkeep.
- (2) The interior circulation plan plus access from and onto public rights-of-way does not create congestion or dangers and is adequate for the safety of the project residents and the general public.

- (3) A sufficient amount of useable open space is provided.
  - (4) The arrangement of uses does not unreasonably disturb the privacy or property values of the surrounding residential uses.
  - (5) The preliminary drainage and utility system plans are adequate based on a report from the director and the final drainage and utility plans shall be subject to his approval.
  - (6) The development schedule ensures a logical development of the site which will protect the public interest and conserve the land.
  - (7) The development is in compliance with the requirements of the city development ordinance number 1444 on file in the city secretary's office.
  - (8) Dwelling unit requirements are in general compliance with the applicable district provisions.
  - (9) The provisions of sections 106-216 (General conditions for all conditional uses in all zoning districts), 106-217 (Conditions for approval), and 106-218 (Amendments) are considered satisfactorily met.
  - (10) The development is in conformance with the comprehensive plan.
- (c) *Termination.* In the event submission or detailed major or minor development site plans, or preliminary plats has not occurred within 12 months of the last approval, then the conditional use permit will become null and void. The applicant may, within the first 12 months, however, request an extension for one additional year, and the city planning and zoning commission may grant such extension.
- (d) *Subsequent procedures.*
- (1) Once the general plan and conditional use permit have been approved, the applicant may proceed to apply for specific major or minor development site plans, and preliminary plat approval (as the case may be), subject to the requirements of section 106-636, (Planned unit development procedures).
  - (2) Each subsequent request for specific major or minor development site plan approval and preliminary plat approval shall be based on the approved general plan. A change in the developer's or subdivider's plans shall require submission and filing of new general plan together with the approval thereof, as required in the city development ordinance number 1444, section 4.01, general plans, which is on file in the city secretary's office.

**Secs. 106-660—106-675. Reserved.**

## **DIVISION 4. REQUIREMENTS**

### **Subdivision I. Generally**

#### **Sec. 106-676. Property controls.**

- (a) In order that the purpose of this section may be achieved, the property shall be in single ownership or under the management and supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this chapter.
- (b) Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document shall be filed with the city. Such filing with the city shall be made prior to the filing of said declaration or documents or plans with the recording officers of the county.



- (c) Prior to recording in the county deed records, approval of the city shall be secured as to the documents described in subsection 106-676(b) (Property controls).
- (d) The declaration of covenants, conditions or restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments shall subject such properties to the terms of such declaration.
- (e) The declaration of covenants, conditions and restrictions shall provide that an owners' association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. The declaration shall be subject to the review and approval of the city attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.

**Sec. 106-677. Public services.**

The proposed project shall be served by the city water and sewer system and fire hydrants shall be installed at such locations as necessary to provide fire protection. Proposed utility connections shall be subject to approval by the planning director.

**Sec. 106-678. Building height.**

Height limitations shall be the same as imposed in the respective districts.

**Sec. 106-679. Roadways.**

Private roadways within the project shall have an improved surface to 24 feet or more in width and shall be so designed as to permit the city fire trucks to provide protection to each building. No portion of this required 24-foot road system may be used in calculating required off-street parking space or be used for parking.

**Sec. 106-680. Exterior building designs.**

The material used on the exterior facade of all commercial and industrial buildings within the city's TIRZ No. 1 shall conform to the requirements below and in accordance to the appropriate zoning district, land uses, and visibility of the site. Any new nonresidential development in the city's TIRZ No. 1 is subject to the applicable provisions in Article IX, Design Guidelines. Where such development is located on a thoroughfare not identified in the requirements of Article IX or on a thoroughfare identified as a Tier 3, then said project shall be subject to the requirements in Tier 2.

Landscaping: Minimum 10 percent.

**Secs. 106-681—106-695. Reserved.**

**Subdivision II. Specific Development Requirements**

**Sec. 106-696. General residential.**

- (a) *Purpose.* It is the intent of this subdivision to establish provisions for the granting of a conditional use permit for planned unit development - general residential projects which are in compliance with the permitted and conditional uses allowed in a specific district including dwellings, and institutional uses

of one or more buildings in relation to an overall design, and integrated physical plan in accordance with the provisions and procedures as prescribed in this chapter.

- (b) *Minimum project size.* The tract of land for which a planned unit development-general residential project is proposed and permit requested shall contain not less than five acres of land.
- (c) *Required frontage.* The tract of land for which a project is proposed and permit requested shall not have less than 200 feet of frontage on a public right-of-way.
- (d) *Yards.*
  - (1) The front, rear and side yard restrictions at the periphery of the planned unit development site, at a minimum, shall be the same as imposed in the respective districts.
  - (2) No building shall be nearer than its building height to the rear or side property line when such line abuts an R-1 or R-2 use district.
  - (3) No building shall be located less than 15 feet from the back of the curblines along those roadways which are part of the internal street pattern.
  - (4) No building within the project shall be nearer to another building than one-half the sum of the building heights of the two buildings.

#### **Sec. 106-697. Townhouses, cooperative, condominiums, multiple-family structures requirements.**

- (a) No single townhouse structure shall contain more than 12 dwelling units.
- (b) Minimum unit lot frontage for townhouses shall be not less than 20 feet.
- (c) Dwelling unit and accessory use requirements are in compliance with the district provisions in which the development is planned.
- (d) Townhouses, cooperatives and condominiums may be subdivided on an individual unit basis according to the provisions of the city development ordinance number 1444 which is on file in the city secretary's office, or under the laws of the state.

#### **Sec. 106-698. Density bonus.**

As a consequence of a planned unit development's planned and integrated character, the number of dwelling units allowed within the respective zoning district may be increased up to ten percent. The building, parking and similar requirements for these bonus units shall be observed in compliance with this chapter.

#### **Sec. 106-699. Commercial and industrial.**

- (a) *Purpose.* The intent of this section is to establish provisions for the granting of a conditional use permit to erect planned unit development - commercial and industrial projects which are in compliance with the permitted and conditional uses allowed in a specific district in one or more buildings in relation to an overall design, an integrated physical plan and in accordance with the provisions and procedures in this chapter.
- (b) *Minimum project size.* The tract of land for which a planned unit development - commercial or industrial project is proposed and permit is requested, shall contain not less than five acres for commercial and industrial projects.
- (c) *Frontage.* The tract of land for which a project is proposed and a permit requested shall not have less than 200 feet of frontage on a public right-of-way.

- (d) *Yard.* No building shall be nearer than 50 feet to the side or rear property line when such line abuts an R-1, R-2, R-3 or MH use district.
- (e) *Landscaping, screening and surfacing.*
  - (1) The entire site other than that taken up by structures or landscaping shall be surfaced with a material to control dust and drainage.
  - (2) A drainage system subject to the approval of the planning director shall be installed.
  - (3) Developments abutting an R-1, R-2, R-3 or MH district shall be screened and landscaped in compliance with required screening and landscaping for the specific use involved as required in section 106-443, (Table B, commercial area requirements) and, section 106-552 (Industrial area requirements).
  - (4) Required landscaping must be maintained by the property owner and/or occupant.

**Sec. 106-700. General implementation provisions.**

- (a) *Compliance with the final development plan and changes.*
  - (1) The development of the planned unit development shall be in compliance with the final development plan.
  - (2) Differences between the actual development and proposed development shown in the final development plan not permitted under the foregoing provisions of this section, will be permitted only if the final development plan is changed with the approval of the city council. Proposed changes shall be reviewed by the planning and zoning commission and recommendations forwarded to the council.
- (b) *Building permits.* Applications for building permits shall be reviewed and approved by the building inspector after considering action and conditions imposed by the city council. Such applications shall be examined to determine if they are in compliance with this chapter and the final development plan.
- (c) *Zoning permit.* A zoning permit shall be secured in compliance with section 106-142 (Zoning permits).

**Secs. 106-701—106-720. Reserved.**

**ARTICLE V. SUPPLEMENTARY DISTRICT REGULATIONS**

**DIVISION 1. GENERALLY**

**Secs. 106-721—106-740. Reserved.**

**DIVISION 2. ACCESSORY BUILDINGS, USES AND EQUIPMENT**

**Sec. 106-741. General provisions.**

- (a) No accessory buildings, uses or structures shall be erected or located in any required yard other than the rear yard except:
  - (1) A detached private garage as defined, may be permitted in side yards, provided:
    - a. It complies with all the requirements of this section;
    - b. It shall be five feet or more from side lot lines; and

- c. The side yard does not abut a street right-of-way.
- (2) Accessory buildings built on a skid foundation, no larger than 120 square feet and no more than one story in height may be located in utility easements in required rear yards, except that they may not be located closer than three feet from a side or rear property line or closer than six feet from any other structure.
- (b) Accessory buildings, uses and structures, with the exception of those on residential large lots, shall not exceed 15 feet in height, shall be three feet or more from all lot lines, shall be six feet or more from any other building or structure on the same lot, and shall not be located upon any utility easement.
- (c) Private garage structures with vehicular access doors facing public alleys, as defined in the public improvement construction policy and standards, shall be 20 feet or more from the alley right-of-way. Detached garages located in rear yards of corner lots shall be set back a minimum ten feet from the property line abutting the side street right-of-way.
- (d) Detached private garages, as defined, may be 20 feet in height, or the height of the principal structure, whichever is less.
- (e) Floor area. See section 106-416 (Special regulations).
  - (1) *Generally.* No accessory building, or carport garage for single-family dwellings shall occupy more than 25 percent of a rear yard, nor exceed 1,000 square feet of floor area.
  - (2) *Large lot residential only.* Accessory buildings in single-family residential large lots with one acre or more may not exceed 5,000 square feet of floor area. Accessory buildings with a floor area in excess of 1,000 square feet must be located at least 10 feet from any property line and 20 feet from other structures. All accessory buildings on lots less than one acre - all provisions of this section apply.
- (f) No more than one detached private garage or carport structure on lots less than one acre with single family dwelling.
- (g) Wind generators, for producing electricity or other forms of energy shall not be located in any yards other than the rear yard and must be set back 150 feet from all property lines or the height of the structure, whichever is greater unless a special conditional use permit (SCUP) is granted. Provisions of SCUP should take into consideration size, height, noise, location to adjacent properties, etc.
- (h) Reserved.
- (i) No accessory uses or equipment except for air conditioning structures or condensers may be located in a required side yard except for side yards abutting streets where equipment is fully screened from view.
- (j) Large lot district. The property owner of a toolhouse, barn, shed, storage building and/or livestock in the large lot district on a tract one acre in size or larger authorized without a principal structure on the property, shall be responsible for ensuring no one lives in the toolhouse, barn, shed, or storage building without properly permitting the structure for residential habitation, the property is kept in a sanitary condition and the property complies with all applicable city regulations.

#### **Sec. 106-742. Domestic livestock.**

- (a) Domestic livestock (cattle, horses, hogs, sheep, goats, chickens, and geese) are a permitted accessory use on lots in excess of one acre (43,560 square feet), provided that all domestic livestock as defined above be restrained by a properly constructed and maintained fence no closer than five feet from property that is not devoted to the keeping of domestic livestock or by a perimeter property (exterior) fence of such construction so as to be impenetrable by livestock and to prevent intrusion into neighboring residential properties, and provided further that said domestic livestock be kept in a concentration that is less than or equal to:

- (1) Two cows per acre.
- (2) Two horses per acre.
- (3) Two hogs per acre.
- (4) Two sheep or goats per acre.

Plus one head for each additional one-half acre of land on the same parcel.

- (b) In any event, the total for the above referenced grazing animals (i.e. sheep, goats, hogs, cows, or horses) shall be cumulative. In the event of fowl or recreational livestock in the large lot uses, no specific concentration is established herein, but in no event, shall the cumulative concentration of fowl grazing or recreational livestock be such as to create a health hazard or nuisance. The requirements of section 34-126 et seq. shall apply in any event.
- (c) The keeping of livestock or fowl for the purpose of breeding, commercial feeding or sale, whether engaged in as a primary or accessory activity, shall be considered a conditional use as specified by section 106-331; (Table A, residential uses).
- (d) Large lot district only.
  - (1) Recreational livestock is a permitted accessory use kept on tracts of contiguous land (under one ownership) totaling one acre in size or larger.
  - (2) For any pre-existing, nonconforming livestock use, without the required primary structure in existence prior to this ordinance, shall be permitted upon submittal and subsequent city approval. Upon such approval registration form shall be issued to the property owner.
  - (3) Recreational livestock concentration shall not exceed grazing livestock concentration unless the following provisions are met:
    - a. A barn and/or similar structure adequate to house livestock is provided to accommodate the number of livestock regardless of type;
    - b. Proper maintenance/care is adequately provided; and
    - c. The site shall be maintained to avoid any public nuisance.

#### **Sec. 106-743. Breeding kennels (dogs and cats only).**

Breeding kennels for dogs and cats only, are a permitted accessory use on lots in excess of 43,560 square feet, provided that all of such kennels are licensed according to section 14-81 et seq., and any amendments or additions thereto. Provided further that all animals must be boarded in enclosures located no closer than 100 feet from any property line. The requirements of section 34-126 et seq., and any amendments or additions thereto shall apply in any event.

#### **Sec. 106-744. Bed and breakfast.**

- (a) A bed and breakfast shall be operated by resident homeowners.
- (b) A bed and breakfast shall conform to the requirements of section 106-334 (Performance standards for all residential uses except for single family dwellings).
- (c) Parking shall be provided in accordance with the requirements of section 106-839 (Number of spaces required).
- (d) A bed and breakfast shall be allowed one sign per Article VII (Signs) of this chapter.

**Sec. 106-745. Commercial-industrial accessory structures and uses.**

Structures and buildings accessory to commercial or industrial principal uses shall meet all setback and height requirements of the district they are in as if they were principal structures.

**Sec. 106-746. Location of heavy truck uses.**

- (1) Heavy truck uses generated from NAICS uses 484110, 484121, 484220, 484230 and 493 shall only be located within properties directly adjacent to the right-of-way of designated High Frequency Truck Roads, provided those uses comply with the underlying zoning.
- (2) Overnight parking of heavy trucks shall only be permitted on properties within the GC, MU, MSD and NC zoning districts adjacent to High Frequency Truck Roads.

**Sec. 106-747. Coin-operated machines.**

All sites for coin-operated machines as defined in section 10-31 must be greater than 300 feet from any public or private school, any hospital or any church. This is to be measured using current TABC guidelines.

**Sec. 106-748. Swimming pools, spas, and hot tubs.**

No swimming pools, spas, or hot tubs shall be erected or located in any required yard except in accordance with the following provisions:

- (1) *Setbacks.*

	Pools	Spas/Hot Tubs	Decks	Pumps, Filters, Heating Equipment
Separation from adjacent structures	6'	N/A	N/A	N/A
Side setback	5'	5'	2'	2'
Rear setback	5'	5'	2'	2'
Setback from utility easement	3'	May not encroach	May not encroach	May not encroach
Front setback	See section 106-771(2) (Yard requirements)	See section 106-771(2) (Yard requirements)	See section 106-771(2) (Yard requirements)	See section 106-771(2) (Yard requirements)

- (2) *Fences.* Swimming pools, spas, and hot tubs shall be enclosed within a fence at least four feet in height. Fences shall comply with all requirements of the currently adopted edition of the Standard Swimming Pool Code published by the City's Code of Ordinances. In the case of a pool located in a

front yard adjacent to the shoreline of Galveston Bay, see section 106-792 (Residential large lots and lots adjacent to Galveston Bay).

**Sec. 106-749. Home occupation.**

- (a) No person other than members of the family residing in the premises shall be engaged in such occupation.
- (b) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- (c) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
- (d) No display, visible from the exterior of the dwelling shall be connected with such home occupation.
- (e) There shall be no outside storage of any kind, including vehicles or equipment connected with such home occupation.
- (f) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.
- (g) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal sense off the lot, if the occupation is conducted in a single-family residence. In the case of noise, the level shall not exceed 50 percent of the values established in section 106-310 footnote B. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in the line voltage off the premises.

**Sec. 106-750. Office trailers.**

Office trailers as defined are only allowed subject to the following conditions:

- (1) Office trailers may be used as construction offices or temporary storage buildings only on construction sites.
- (2) No office trailer shall be moved on to a construction site until the required building permit has been issued.
- (3) All office trailers shall be removed from a construction site once work is completed or abandoned.
- (4) In no case shall an office trailer be used for overnight sleeping purposes.

**Sec. 106-751. Shipping containers used for storage.**

- (a) Shipping containers may be used as temporary material storage facilities on construction sites in all zoning districts except residential (R-1, R-2, and R-3). In addition, commercial construction allowed in residential zoning districts may use shipping containers as temporary material storage facilities. (Note: Certificate of occupancy shall not be issued until shipping container is removed from the site.)
- (b) Shipping containers may be used as an accessory structure in LL, GC, BI and LI zoning districts. Shipping containers utilized as an accessory building/structure shall be subject to the following provisions and shall comply with all applicable permit conditions:

- (1) It shall comply with all yard setbacks.
  - (2) No larger than 350 square feet and no more than one container may be located at site. In case of light industrial (LI) and business industrial (BI) zoning districts, one container per three acres and maximum of three containers per site shall be permitted.
  - (3) Overall lot coverage shall not exceed those applicable to the subject zoning districts.
  - (4) Containers shall not be stacked.
  - (5) Structure must have a minimum 3/12 pitched composition shingled roof or other material approved by the director.
  - (6) All sidings shall be covered with hardy plank, or other material approved by the director. The doors may remain uncovered.
  - (7) The building may be placed on the ground without a foundation provided that building is anchored to the ground per standard building codes.
  - (8) Structure shall be architecturally and aesthetically complimentary with the primary building.
  - (9) A building permit shall be applicable prior to installation.
  - (10) Within 30 days of the issuance of a building permit, shipping container shall be enclosed within a building or required components shall be attached to the frame of the container.
  - (11) Maintenance of all items required herein is the sole responsibility of the owner.
  - (12) Failure to comply with these provisions will cause removal of the container from the property at the owner's expense.
- (c) The owners of shipping containers utilized as mobile supply tool/material supply storage units are allowed to stage a maximum of up to two units at their operating business location provided that the units are screened from public view and from right-of-way subject to requirements of subsections 106-444(a), (b) (Commercial performance standards) of this chapter.

#### **Section 106-752. Dumpster enclosures.**

- (a) When utilized, external trash storage shall not be visible from a public street. When visible from a public street, they shall be located in a gated enclosure of sufficient height to conceal the dumpsters, bins and compactors.
- (b) Permitted materials include solid wood or masonry.
- (c) Dumpster enclosures shall not be allowed within a public right-of-way, unless approved by the Director of Planning and Development or his/her designee.
- (d) In the Main Street District, when a dumpster is visible from a public street the dumpster shall be screened. If it is visible only via the alley from a public street, screening will not be required.
- (e) Areas in and around the dumpster shall be kept clean of debris/unsanitary conditions and the enclosure shall be maintained in a manner that the dumpster is fully screened at all times.

**Secs. 106-753—106-770. Reserved.**

### **DIVISION 3. AREA REQUIREMENTS**

#### **Sec. 106-771. Yard requirements.**

The following shall not be considered as encroachments on yard setback requirements:



- (1) *Chimneys, flues, belt courses, etc.* Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, steps, stoops, and the like, provided they do not project more than four feet into any front or rear yard, and two feet into any side yard.
- (2) *Terraces, decks, patios, etc.* Terraces, decks, patios, or similar features, provided they do not extend more than one foot above the height of the exterior finish grade elevation, or to a distance less than two feet from any lot line, or encroach upon any utility easement. Further, pools shall not be considered as an encroachment on a front yard setback, provided that such pools are located in a front yard adjacent to Galveston Bay, and provided further that such pool does not extend more than one foot above the exterior finish grade elevation, or to a distance less than two feet from any lot line or encroach upon any utility easement.
- (3) *Rear yards only.* An unenclosed, attached patio cover, awning, or canopy, provided that no portion of such patio covers, awnings, or canopies shall encroach into any utility easements, or any vertical projection thereof, and provided further that no portion of such patio covers, awnings, or canopies shall be located at a distance less than five feet from the side property line or three feet from the rear property line, or any vertical projection thereof.
- (4) *Front and side yard carports.* Front and side yard carports shall be permitted for single-family detached homes subject to the following requirements:
  - a. Carports in a required front or side yard shall not be located closer than five feet from any front or side property line.
  - b. Carports located on corner lots shall not be located closer than 25 feet from an intersection. This distance shall be measured from the intersection of property lines common with street right-of-way lines.
  - c. The maximum width of a carport located in a required front or side yard shall be 25 feet.
- (5) *Recreational areas, facilities and open space.* Trails, playgrounds, and detention areas located within multi-family residential developments are permitted provided they do not encroach into any utility easement.

### **Sec. 106-772. Height requirements.**

The building height limits established in this chapter for distances shall not apply to the following except if they are located within an airport height restriction area:

- (1) Belfries;
- (2) Chimneys or flues;
- (3) Church spires, not exceeding 20 feet above roof;
- (4) Cooling towers;
- (5) Cupolas and domes which do not contain usable space;
- (6) Elevator penthouses;
- (7) Flagpoles;
- (8) Monuments;
- (9) Parapet walls extending not more than three feet above the limiting height of the building;
- (10) Water towers;
- (11) Poles, towers, and other structures for essential services;
- (12) Necessary mechanical and electrical appurtenances;
- (13) Television and radio antennas not exceeding 20 feet above roof;

- (14) Wind electrical generating equipment;
- (15) Heavy industrial (HI) facilities, with a special conditional use permit. See section 106-310 (Table A, commercial and industrial uses) and section 106-522 (Table B, industrial area requirements).

**Sec. 106-773. Exterior storage.**

In residential zones, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:

- (1) Clothesline poles and wires;
- (2) Construction and landscaping material currently being used on the premises;
- (3) Off-street parking of passenger vehicles and light trucks, as defined in this chapter;
- (4) Firewood, compost, or residential lawn and garden tools.

**Secs. 106-774—106-788. Reserved.**

**DIVISION 4. FENCING AND LANDSCAPING REQUIREMENTS**

**Sec. 106-789. Fence materials.**

Allowable fence material shall include wood pickets, chain link, masonry, and wrought iron. Any other materials are subject to approval by the director of planning.

**Sec. 106-790. Subdivision perimeter fences.**

Subdivision perimeter fences shall be required in recorded subdivisions that exceed five acres. Such perimeter fences shall not exceed eight feet in height. Materials shall be limited to opaque wood fences with brick base and columns and solid brick fences when subdivision backs up to major thoroughfare. The director of planning may approve other material that meets the intent of this section.

**Sec. 106-791. Front yard areas.**

No fences, structures, grading, or barrier hedges shall be permitted within any front yard areas except in the case of residential large lots, or in the case of lots with a front yard directly adjacent to the shoreline of Galveston Bay, as provided in section 106-792 (Residential large lots and lots adjacent to Galveston Bay).

**Sec. 106-792. Residential large lots and lots adjacent to Galveston Bay.**

In the case of residential large lots, eight feet perimeter fences are permitted as an accessory use. In the case of lots with a front yard directly adjacent to the shoreline of Galveston Bay, four feet front yard fences are permitted parallel and adjacent to the side lot lines. However, such fences shall be permitted on the front lot line directly adjacent to Galveston Bay, and shall only be constituted of chain link. These exceptions do not permit structures, grading, or barrier hedges.

**Sec. 106-793. Fences in side and rear yards.**

Within side yards and rear yards, fences of not higher than eight feet including rot boards and walls 42 inches high or less shall be permitted.

### **Sec. 106-794. Fences and trees on utility easements.**

Fences or trees placed upon utility easements are subject to removal at the owner's expense if required for the maintenance or improvement of the utility. Trees on utility easements containing overhead wires shall not exceed ten feet in height.

### **Sec. 106-795. Maintenance of fences.**

Both sides of the fence must be maintained in good condition by the owner of the fence and grass/ground cover adjoining the fence must be mowed and weeds removed on a regular basis.

Subdivision perimeter fences or walls shall be maintained and repaired by the developer, owner, owner's agent, and/or homeowner association or the management company of a subdivision. Maintenance, repair or replacement of wood or masonry fence around manufactured housing parks is the sole responsibility of the owner, its agent, or the management company.

### **Sec. 106-796. Barbed wire fences.**

Barbed wire fences shall not be permitted, used or constructed except in industrial districts or to control livestock as hereinafter provided.

### **Sec. 106-797. Property line fences in commercial and industrial districts.**

Fences in commercial and industrial zones which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire can be fastened commencing at a point at least seven feet above the ground, and such fence shall not be erected within the required landscaped portion of any yard of any commercial or industrial establishment.

### **Sec. 106-798. Fencing and wall requirements for automotive wrecking, salvage yards, junk dealers, etc.**

- (a) *General requirement.* Every automotive wrecking and salvage yard/junk dealer/scrap metal processor yard with the city shall be completely surrounded and enclosed by a solid fence or wall which is at least eight feet in height.
- (b) *Construction, maintenance of fence or wall.* Every fence or wall herein shall be constructed and maintained as follows:
  - (1) All fences shall be constructed of wood, masonry, corrugated sheet metal, chain link or any combination thereof; provided, however, that any one side of an automotive wrecking and salvage yard/junk yard/scrap metal processing yard shall be bounded by a fence or wall constructed of only one of the above materials.
  - (2) Chain link fences shall be constructed of galvanized chain link fencing with wood or metal slats or strips run through all links of the chain link fence.
  - (3) All fences or walls shall extend downward to within three inches of the ground and shall test plum and square at all times.
  - (4) All fences or walls shall be constructed in compliance with all applicable provisions of the building code of the city.
- (c) *Use of wall, door or building as part of fence or wall.* Any part of a fence or wall required by subsection (a) of this section may consist in whole or in part of a solid wall and door, or walls and doors of any completely enclosed building on the premises, if such wall or door meets all construction requirements set forth in this section.

- (d) *Gates at openings in enclosure.* Openings in the prescribed enclosure which are necessary to permit reasonable access to said automotive wrecking and salvage yards/junk yards/scrap metal processing yards shall be equipped with a solid gate or gates, constructed and maintained in accordance with the requirements for a fence or wall set forth in this section. Such gates shall be closed and securely locked at all times except during normal daytime business hours.

**Sec. 106-799. Construction, maintenance of electric fences.**

- (a) Except as provided herein, it shall be unlawful for any person owning or controlling any property in the city to construct, maintain, or permit to remain on such property any fence charged with electricity, or to cause any fence to become charged with a current of electricity, to connect any such fence with a source of electricity or to permit any fence under the control of such person to be connected with a source of electricity.
- (b) The use of electric fences shall be allowed on the premises of any single family dwelling, without regard to the zoning district classification of the property, only for the purpose of erecting an enclosure to restrain the movement of dogs and/or livestock. All electric fence equipment so utilized shall be a UL approved product and installed and maintained in accordance with the manufacturer's instructions. The owner and/or controller of the premises shall be responsible for 1) obtaining a building permit prior to installation of the electric fence; 2) installing and maintaining signage that identifies the fence as an "electric fence", and 3) scheduling a city inspection to confirm the product is tested/approved and installed in accordance with manufacturer's instructions.
- (c) Permit fees shall be in accordance with appendix A of the Code of Ordinances.
- (d) In any prosecution under this section testimony that any fence was under the control of the defendant or situated on his premises and that any person received an electric shock by coming in contact with such fence shall be prima facie evidence that such defendant caused such fence to be charged with a current of electricity and caused and permitted such fence to be connected with a source of electricity.

**Sec. 106-800. Landscaping.**

- (a) Landscaping is required along the front property line and along the side property lines in a minimum four feet wide planting strip. Corner lots shall be treated as having two front property lines. A certified site plan and/or separate landscape plans shall be submitted in conjunction with building permit applications. A landscape legend on the site plan shall include type, size, and number of plantings existing and proposed at site. Approval of landscape requirements is a condition of building permit approval. The perimeter landscaping requirements of this subsection are not applicable in the Main Street District Overlay.
- (b) Landscaping within public rights-of-way will not contribute towards a total required landscaping for parking and open-space areas unless approved by the director. Landscaping on public property or easements is at owner's risk and subject to the requirements of section 106-794 (Fences and trees on utility easements) of this chapter.
- (c) Landscaping plans shall be developed using the following criteria:
  - (1) *Location.*
    - a. The required planting strip shall be located adjacent to the front and side property lines up to the front of the primary structure of the site or the building setback line, whichever is greater.
    - b. Trees within the planting strip. There shall be at least one shade tree for every 30 linear feet of front property. When overhead utility lines are parallel and adjacent to the planting strip or run parallel within the planting strip, ornamental trees may be substituted for the required street trees at the rate of one tree for every 20 linear feet of front property. Trees

shall be planted within the planting strip in a boulevard type manner on center and uniform distance from the curb or pavement.

- c. Shrubs within the planting strip. When a parking lot is located between the building and any adjacent right-of-way, shrubs are required in the planting strip adjacent to the right-of-way and shall be spaced at three feet on center. At maturity, shrubs in a required planting strip should form a continual evergreen hedge or row of 36 inch in height.
  - d. Landscaping shall be in accordance with the visibility triangle requirements in sec. 106-311 (Visibility triangle).
  - e. Parking lot requirements.
    - i. Parking lot with minimum 20 spaces shall provide a planter at the ratio of one for every ten parking spaces.
    - ii. Planters (minimum 135 square feet) shall not abut on more than two sides of required perimeter landscape area. Each required planter shall have one shade tree. Trees shall be dispersed throughout the parking lot to maximize the shading effect on the parking spaces. These trees are exclusive of trees planted around the perimeter of the parking lot.
  - f. When adjacent to residential, landscaping shall be required in accordance with section Section 106-444(a) (Screening).
- (2) *Types of plants and materials.* Trees, flowering and non-flowering plants, shrubs, wood, timber, stone, fountains, and ponds may be used for required landscaping.
- a. Shade trees shall be a minimum of two-inch caliper and shall be selected from city's recommended native/protected trees and plants list. Ornamental trees shall be a minimum of six feet in height at the time of planting.
  - b. Shrubs or hedgerow plants shall be no less than five gallons in size.
- (3) *Maintenance.* Required landscaping must be maintained by the property owner and/or occupant. Vehicles should not encroach upon perimeter landscape areas or planters. Wheel stops must be provided along perimeter frontage to ensure no overhang or damage to landscape area.
- (4) *Irrigation.* A irrigation system shall be provided to all landscaped areas subject to the following:
- a. On developments greater than one acre, a programmable automatic irrigation system with rain sensor devices shall be provided to all landscape areas.
  - b. On developments one acre or less, in lieu of a programmable automatic irrigation system, a programmable hose bib system may be utilized when plant material is within 100 feet of the hose bib.
  - c. An exception from the irrigation system requirements shall be allowed when utilizing drought tolerant and native plants as identified by Texas A&M University's current table for this region. These plantings must be established through manual irrigation for a minimum of 6 weeks after planting.
- (d) Landscaping/screening for shipping container facilities.
- (1) The property owner or tenant shall provide a natural screening. This will be accomplished in one of three ways.
    - a. Leave in place existing trees, vegetation, underbrush, etc. to provide a thorough, continuous and effective opaque visual screening of the shipping container development.
    - b. Construct earthen berms with a combination of trees, shrubs, and ground cover that after three years will be at least 20 feet in height and creates a continuous visual screen.

- c. Develop a screening plan that would be approved by the city that includes a combination of trees, shrubs, and ground cover that after three years will be at least 20 feet in height and creates a continuous visual screen.
- (2) The property owner or tenant will provide screening along the frontage of the site and along the side yards for a distance of 50 feet. In the advent that the site is adjacent to a commercial or residential use, the screening shall be required for the entire length of the adjacent yard area.
- (3) All required screening shall be adjusted away from overhead power lines to allow for full maturity of the trees without unnecessary trimming or topping of the trees.
- (e) Placement of landscaping shall be in accordance with the visibility triangle requirements of section 106-311 (Visibility triangle).
- (f) Screening for commercial and industrial uses adjacent to residential shall refer to the requirements of section 106-444(a) (Commercial performance standards).

### **Sec. 106-801. Tree preservation.**

- (a) It is the intent of this section to encourage the preservation of existing trees within the city and to prohibit their unwarranted destruction. The city encourages site planning which furthers the preservation of trees and natural areas by the following methods: To protect trees during construction; to facilitate site design and construction which contributes to the long term viability of existing trees; and to control premature removal of trees; require on-site replacement of trees that must be removed and require off-site replacement of trees that cannot be replaced on-site, either by direct planting or through a contribution to the tree fund established in section 106-803 (Tree fund) of this chapter. It is the further intent of this section to achieve the following objectives:
  - (1) Protect healthy trees and preserve the natural, environmental, and aesthetic qualities of the city to the degree possible.
  - (2) Protect and increase the value of residential and commercial properties within the city.
  - (3) Discourage premature clear-cutting of property.
  - (4) Maintain and enhance a positive image for the attraction of new developments to the city.
- (b) It shall be unlawful for any person to cause or permit the destruction of any healthy native tree within the city if such tree has a trunk which exceeds six inches in diameter (or 18.84-inch circumference) at a point 18 inches above the natural ground level. Provided, however, it shall not be a violation of this provision if a tree is removed and/or destroyed if the tree is obviously diseased or determined to be diseased by an arborist or in the opinion of the planning director or his designated representative, said tree constitutes a hazard to pedestrian and/or vehicular traffic along any such right-of-way.
- (c) No person, firm or corporation desirous of developing or improving any parcel of property, shall remove or cause the removal of any tree from said property without first obtaining a clearing permit which would allow clearing of buildable areas only.

### **Sec. 106-802. Tree replacement**

A tree disposition plan or tree survey must be submitted and approved prior to the removal or destruction of any qualifying protected tree. In the event that it is necessary to remove a protected tree, as a condition of a building permit issuance, applicant shall be required to replace the tree(s) being removed with replacement trees as follows:

- (a) *Number of replacement trees.* Tree disposition conditions and tree permit authorizing removal of or damage to large trees or protected trees shall normally require replacement by one or more newly planted trees on the same subject site. If this is not feasible, the owner or developer must plant and maintain off-site replacement trees in reasonable proximity to the subject site.

- (b) *Minimum size.* Replacement trees must normally have a trunk caliper of at least two inches measured six inches from the ground. The enforcement officer may prescribe a proportionally smaller trunk caliper for certain species of trees, i.e. Crepe Myrtle.
- (c) *Qualified trees.* To be a "qualified tree", a tree must comply with the recommended tree list "native or protected" of the city.
- (d) *Standard of review.* The enforcement officer shall use reasonable best efforts to determine the type and number of replacement trees required in an attempt to minimize undue burden resulting from this section.
- (e) *Trees in street area.* Before authorizing establishment or maintenance of tree or decorative landscaping, such as lighting or a watering system in a street area, the building official must be satisfied that Tex. Trans. Code, Chapter 316 has been complied with and also confirms there would be no violation of the provisions relating to visibility triangles and future overhead obstruction.

A sufficient number and diameter of replacement trees shall be planted on the subject site in order to equal the total diameter inches, as determined above. If this is not feasible, the applicant may, upon approval by the director, plant and maintain off-site replacement trees in accordance with this section.

### **Sec. 106-803. Tree fund.**

There is hereby established a tree fund, which shall be administered by the director of parks and recreation or his/her designee. All revenues, mitigation fees, and penalties received pursuant to this section, or for the enforcement thereof, and any donations or grant monies received to achieve the purpose of tree preservation or replacement, shall be deposited into the tree fund. Monies in the tree fund may be used to purchase trees required for replacement but may not be used in any manner that will profit the grantee. Tree replacement fee shall be calculated at the rate of \$50.00 per caliper inch of tree otherwise required or shall be periodically adjusted as the market value of replacement trees warrants. The amount paid to the tree fund shall be applied at a maximum of \$5,000 per acre (or fraction thereof) with a maximum total payment of \$100,000 per development.

The owner or developer of any lot or tract of land required to replace trees in accordance with this chapter may, as an alternative, and upon approval by the city, pay a prescribed fee/amount into the tree fund in accordance with the following conditions:

- (1) *Residential and non-residential site plans/plats.* Payment to the tree fund must be received by the city prior to the submission of the development site plan and/or final plat approval by the planning and zoning commission.
- (2) *Building permits not requiring site plans/plats.* Payment to the tree fund must be received by the city prior to the issuance of a building permit.

### **Sec. 106-804. Protective fencing.**

- (a) *Fences required.* Unless otherwise specified in the tree disposition conditions, each protected tree to be preserved must be fenced during development or pre-development activity.
- (b) *Fence criteria.* Unless the tree disposition conditions specify otherwise:
  - (1) A six-foot or higher fence must surround each protected tree or group of trees, preventing people, machinery, trash, material, and other items from occupying the area within the protective fencing.
  - (2) The fence must be constructed of durable, highly visible materials supported on poles firmly set in the ground.
  - (3) The fence must be able to resist intrusions and impact likely to be encountered on a construction site.

- (4) The fence may incorporate existing fences or walls as well as temporary fencing.
- (5) Each fence must display a prominent warning sign.
- (c) *Trash, storage prohibited.* It shall be unlawful for any person to use the area within the protective fencing for trash disposal, storage, vehicle parking or any other use that could adversely affect tree roots.
- (d) If the developer chooses not to fence the tree, the amount paid to the tree fund is doubled the calculated cost to the tree fund for that tree if it is severely damaged. The cap does not apply to this amount.

**Secs. 106-805—106-830. Reserved.**

## **ARTICLE VI. OFF-STREET PARKING**

### **Sec. 106-831. Purpose.**

- (a) The regulation of off-street parking spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.
- (b) In parking lots comprised of 25 or more spaces, a maximum of eight percent of required parking spaces may be developed as landscape islands, subject to the requirements of section 106-800(c) (Landscaping). These islands shall count towards the total percentage of landscaping required in sections 106-333 (Table B, residential area requirements), 106-443 (Table B, commercial area requirements), and 106-522 (Table B, industrial area requirements).

### **Sec. 106-832. Application of these regulations to all zoning districts; exception for Main Street overlay district.**

- (a) The regulations and requirements set forth in this article shall apply to all off-street parking facilities in all of the zoning districts of the city, with the exception of the Main Street overlay district, which said parking regulations are as set forth below.
- (b) *Main Street overlay district parking regulations.* In the Main Street overlay district, parking is required for new buildings for employees only, with a minimum of two spaces being required. In said district applicable streets and/or alleys are allowed to count as the driving aisle or access to said parking spaces. For new buildings in the Main Street overlay district, no parking lots are allowed to be developed in front of said new buildings.

### **Sec. 106-833. Site plan drawing.**

All applications for a building or a zoning permit in all zoning districts shall be accompanied by a certified site plan drawn to scale and dimensioned indicating the compliance with the requirements set forth in this article.

### **Sec. 106-834. General provisions.**

- (a) *Floor area.* The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus 15 percent.



- (b) *Reduction of existing off-street parking space or lot area.* Off-street parking spaces and loading spaces or lot area existing upon the effective date of this chapter shall not be reduced in number or size unless said number or size exceeds the requirements set forth in this article for a similar new use.
- (c) *Nonconforming structures.* Should a nonconforming structure or use be damaged or destroyed by fire, it may be reestablished if elsewhere permitted in these zoning regulations, except that in doing so, all off-street parking or loading spaces shall meet the requirements of this chapter.
- (d) *Change of use or occupancy of land.* No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by these zoning regulations.
- (e) *Change of use or occupancy of buildings.* Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by these zoning regulations.
- (f) *Garage requirement.* Every single-family dwelling unit hereafter erected shall be so located on the lot so that at least a two-car garage, either attached or detached, can be located and accessed on said lot.
- (g) *Residential use.* Off-street parking facilities accessory to residential use shall be utilized solely for the parking of licensed and operable passenger automobiles. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial motor vehicles or equipment, pole trailers, semitrailers, shipping containers, trailers, trucks, or truck tractors. Boat or recreational vehicles, are not subjected to the restrictions imposed by this section.
- (h) *Calculating space.*
  - (1) When determining the number of off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space.
  - (2) In stadiums, sport arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 22 inches of such seating facilities shall be counted as one seat for the purpose of determining parking requirements.
  - (3) Should a structure contain two or more types of use, each use shall be calculated separately for determining the total off-street parking space required.

**Sec. 106-835. Design standards (also see Figures 10-1, 10-2 and 10-3).**

- (a) *Parking space size.* Each standard parking space shall not be less than nine feet wide and 18 feet in length, and each ADA/Texas Accessibility Standards (TAS) accessible parking space shall not be less than 14 feet wide and 20 feet in length, exclusive of access aisles, and each space shall be served adequately by access aisles
- (b) *Within structures.* The off-street parking requirements may be furnished by providing a space so designed within the principal building of one structure attached thereto; however, unless provisions are made, no building permit shall be issued to convert such parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this chapter.
- (c) *Circulation.*
  - (1) Except in the case of single-family, two-family and townhouse dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single-family, two-family and townhouse dwellings, parking area design which requires backing into the public street is prohibited.

- (2) All multifamily developments must include an area designated for accommodation of school buses and the loading and unloading of passengers. Wherever possible said pick up/drop off sites should be located such that the passengers can be protected from the elements. Such areas must comply with minimum standards necessary for the efficient ingress, egress, and maneuvering of school buses for the loading and unloading of passengers as set by the La Porte Independent School District. A copy of these standards can be obtained from the school district.
- (3) In the case of off-street parking facilities located within multifamily developments all non-adjacent garage structures divided by parking bays or access aisles shall be separated by no less than 28 feet.
- (4) Maneuvering aisle. A minimum of a 25-foot maneuvering aisle is required for 90-degree parking. A minimum of a 18-foot maneuvering aisle is required for 60- and 45-degree parking.
- (d) *Parallel parking spaces.* In all cases, parallel parking spaces shall be 22 feet in length. Except in the case of single-family, two-family and townhouse dwellings, parking areas and their aisles shall be developed in compliance with the standards contained in Figures 10-1 and 10-3.
- (e) *"Head-in" parking spaces.* In the case of off-street parking facilities located within multiple-family developments exclusively serving "senior" age individuals, all 90° or "head-in" parking is prohibited.

FIGURE 10-1

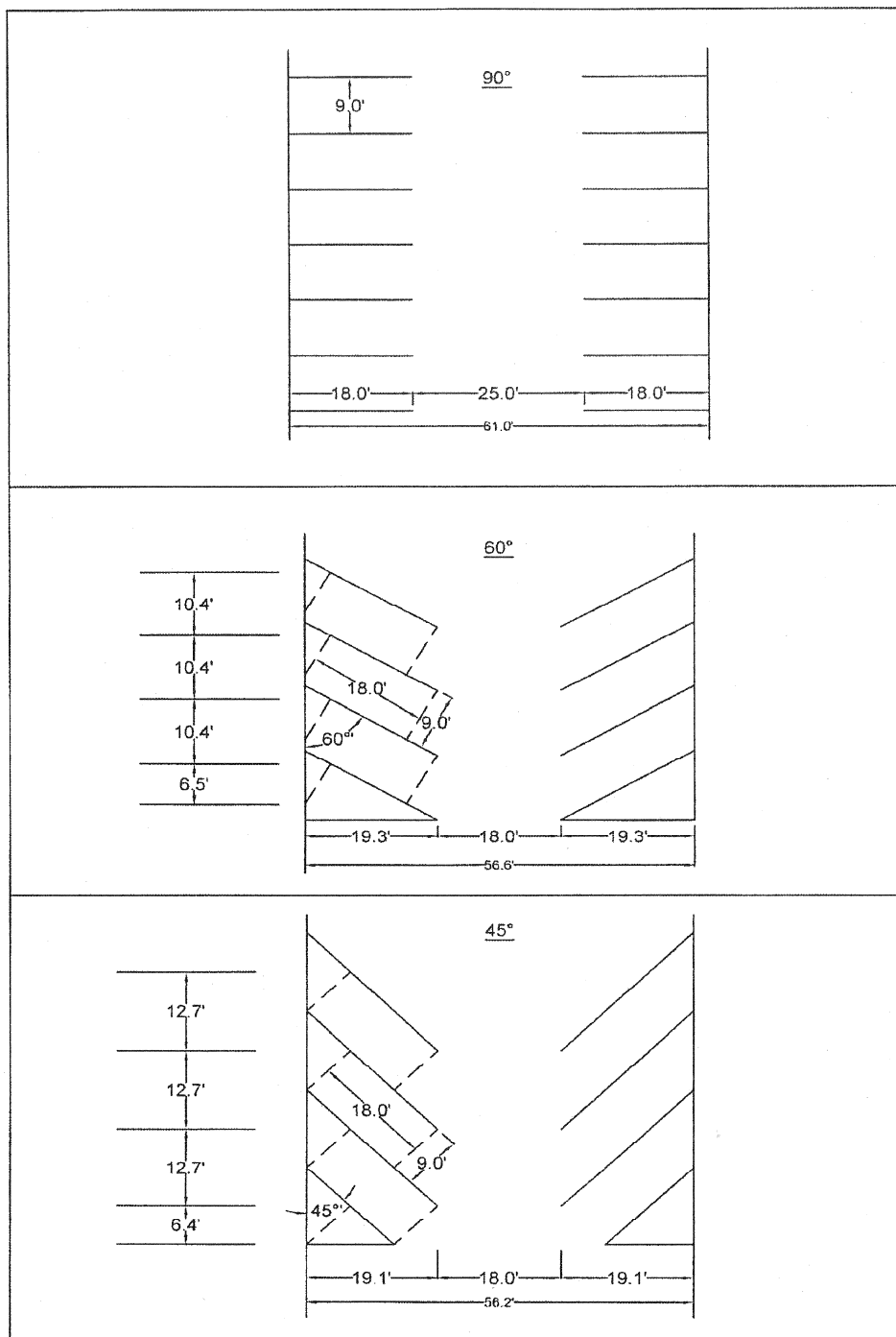


FIGURE 10-2  
CURB AND DRIVEWAY CRITERIA, RESIDENTIAL DISTRICTS  
(R-1, R-2, R-3, LL, MH)

Driveway	Requirements
Drive width	12' minimum to 25' maximum
Curb return radius	<del>2' to 5'</del> 3' minimum to 15' maximum Curb return cannot cross property line
Distance from intersection	25' min.*
Spacing between driveway	10' min.
Distance from side lot line	3' min.
Intersecting angle	90
Approach grade	5% max.
For concrete drives only:	
a. Material	Min. 4" thickness w/ 6×6-6/6 W.W.M.
b. Expansion joint	At property line
c. Curb (if applicable)	Curbs disappear at property line if no curb is present at existing street.
Obstruction clearance	Min. 3' from poles, hydrants, etc.

\* This distance shall be measured from the intersection of property lines common with street right-of-way lines.

FIGURE 10-3  
 CURB AND DRIVEWAY CRITERIA  
 COMMERCIAL AND INDUSTRIAL DISTRICTS  
 (MU, MS, NC, GC, BI, LI, HI)

Driveway Criteria	Requirements	
	Commercial	Industrial
Drive width	20' minimum to 35' maximum; when adjacent roadway speed limit is 55 MPH or greater minimum 30' to maximum 45'	30' minimum to 50' maximum
Curb return radius	10' minimum to 25' maximum Curb return cannot cross property line.	10' minimum to 30' maximum Curb return cannot cross property line.
Distance from intersection	40' min.*	40' min.*
Spacing between driveways	40' min.	40' min.
Number of accesses	1/80'; 2/150'	1/80'; 2/150'
% of property frontage	40%	40%
Intersecting angle	90	90
Approach grade	5% max.	5% max.
Expansion joint	At prop. line	At prop. line
Curbs	Curbs disappear at property line if no curb is present at existing street.	Curbs disappear at property line if no curb is present at existing street.
Obstruction clearance	5' min.	5' min.
Distance from side lot line	10' min.	10' min.

\* The distance shall be measured from the intersection of property lines common with the street right-of-way lines.

- (e) *Driveway approaches.* Driveway approaches shall be a minimum two feet from the side property line in residential districts, and ten feet from the side property line in business or industrial districts, or R-3 residential districts.
- (f) *Surfacing.* All areas for parking space and driveways shall be surfaced with materials suitable to control dust and drainage. Except in the case of single-family and two-family dwellings, driveways and stalls shall be surfaced with standard concrete, hot-mix asphalt, or chip seal (TxDOT Standard 316 surface treatment) in conformance with the public improvements criteria manual (PICM).
- (g) *Striping.* Except for single-family, two-family and townhouse dwellings, all parking stalls shall be marked with painted lines not less than four inches wide.
- (h) *Lighting.* Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses and public right-of-way. Reference Section 106-310 (a)
- (i) *Curbing.* Except for single-family, two-family and townhouse dwellings, all open off-street parking shall have a curb barrier. When determined to be necessary to maintain landscaping structure and retain water runoff.
- (j) *Required screening.* Any screening required shall consist of the following:
  - (1) A planting strip shall consist of evergreen groundcover, and shall be of sufficient width and density to provide an effective screen. The planting strip shall contain no structures or other use. Such planting strip shall not be less than six feet in height. Earth mounding or berms may be used, but shall not be used to achieve more than two feet of the required screen.
  - (2) Standards:
    - a. *Width of planting strip:* Four feet.
    - b. *Type of planting:* Evergreen.
    - c. *Size of plants:* Minimal height of four feet at time of planting. Must reach a height of six feet within two years.
    - d. *Planting density:* Such that within two years of normal growth, a solid screen will be formed to a height of at least six feet above adjacent grade.
  - (3) Screening will be required in the following situations:
    - a. Parking areas for recreational buildings, community centers, religious, and private and public educational institutions.
    - b. Manufactured housing parks and subdivisions shall be screened from abutting uses.
  - (4) Required screening will count toward the required percentage of landscaping.
- (k) *Parking lot screening.* A landscape buffer shall be maintained between all open, nonresidential off-street parking areas of five or more spaces abutting residential districts. Landscape buffers shall be a minimum of four feet in width. Plantings should consist of trees and low evergreen shrubs. Planting plans shall be approved by the director.

### **Sec. 106-836. Maintenance.**

It shall be the joint and several responsibility of the lessee and owner of the principal use, uses or building to maintain, in a neat and adequate manner, the parking spaces, access ways, striping, landscaping, and required fences.

**Sec. 106-837. Location.**

All accessory off-street parking facilities required by this chapter shall be located and restricted as follows:

- (1) Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of subsections 106-444(e) and (f) (Commercial use performance standards).
- (2) Except for single-family, two-family and townhouse dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited.
- (3) There shall be no off-street parking within 15 feet of any street surface.
- (4) The boulevard portion of the street right-of-way shall not be used for parking.
- (5) Setback area. Required accessory off-street parking shall not be provided in front yard setbacks or in side yard setbacks in the case of a corner lot, in R-1 and R-2 districts.
- (6) In the case of single-family, two-family, and townhouse dwellings, parking shall be prohibited in any portion of the front yard except designated driveways or one open, surfaced space located on the side of a driveway, away from the principal use. Such extra space shall be surfaced with concrete or bituminous material, with the exception of those properties in the Large Lot District which may be unpaved.

**Sec. 106-838. Use of required area.**

Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, or storage of inoperable vehicles as regulated by the junk vehicle requirements in section 34-166 et seq.

**Sec. 106-839. Number of spaces required.**

The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses hereinafter set forth. Such required parking shall include the required number of handicapped parking spaces as regulated by the city building code, and the City’s Code of Ordinances.

<b>2012 NAICS Code</b>	<b>2012 NAICS Title</b>	<b>MINIMUM NUMBER OF REQUIRED PARKING SPACES (combination)</b>
23	General Contractors	4 Minimum plus 1 per 1,000 s.f.
31-33	Manufacturing	10 Minimum plus 1 per Employee
42	Wholesale Trade	4 Minimum plus 3 per 1,000 s.f. office 1 per 1.5 non-office employee
4411 4412	Automobile Dealers Other Motor Vehicle Dealers	4 Minimum plus 1 per Employee 1 per 500 s.f. showroom area
4413	Automotive Parts, Accessories and Tire Stores	4 Minimum plus 4 per 1,000 s.f. retail area
442 443 444	Furniture and Home Furnishings Stores Electronics and Appliance Stores Building Material and Garden Equipment and Supply Dealers	4 Minimum plus 4 per 1,000 s.f. retail area

445	Food and Beverage Stores	
446	Health and Personal Care Stores	
44711	Gasoline Stations with Convenience Stores	4 Minimum plus 3 per 1,000 s.f. retail area
44719	Other Gasoline Stations	4 Minimum plus 2 per service stall
448	Clothing and Accessory Stores	5 per 1,000 s.f. (min 4)
451	Sporting Goods, Hobby, Musical Instrument, and Book Stores	5 per 1,000 s.f. (min 4)
452	General Merchandise Stores	
453	Miscellaneous Store Retailers	
4541	Electronic Shopping and Mail-Order Houses	5 per 1,000 s.f. (min 4)
4542	Vending Machine Operators	4 Minimum plus
4543	Direct Selling Establishments	1 per 1.5 non-office employee
48-49	Transportation and Warehousing	4 Minimum plus 3 per 1,000 s.f./office 1 per non-office employee
51211	Motion Picture and Video Production	4 Minimum plus 3 per 1,000 s.f. office
51212	Motion Picture and Video Distribution	1 per non-office employee
512131	Motion Picture Theaters (except Drive-ins)	10 Minimum plus 1 per 4 Seats
512132	Drive-in Motion Picture Theaters	10 minimum plus 1 per employee
51219	Postproduction Services and Other Motion Picture and Video Industries	4 Minimum plus 3 per 1,000 s.f. office
5122	Sound Recording Industry	1 per non-office employee
52	Finance and Insurance	4 Minimum plus 1 per 400 s.f.
531	Real Estate	4 Minimum plus 1 per 300 s.f./office
53211	Passenger Car Leasing	4 Minimum plus 1 per employee 1 per 1000 sf/ office area
53212	Truck, Utility Trailer, and RV Rental and Leasing	4 Minimum plus 3 per 1,000 s.f./office
5322	Consumer Goods Rental	1 per non-office employee
5323	General Rental Centers	
5324	Commercial and Industrial Machinery and Equipment Rental and Leasing	
54	Professional, Scientific, and Technical Services	4 Minimum plus 3 per 1,000 s.f./office 1 per non-office employee
55	Management of Companies and Enterprises	4 Minimum plus 3 per 1,000 s.f./office 1 per non-office employee
56	Administrative and Support, Waste Management, and Remediation Services (except 561450 Credit Agencies)	4 Minimum plus 3 per 1,000 s.f./office 1 per non-office employee
561450	Credit Agencies	4 Minimum plus 1 per 300 s.f.
611110	Public or Private Educational (except Senior High School)	1 per 20 Students 1 per Staff Member (10 Minimum)
611110	Senior High School	1 per 4 Students 1 per Staff Member (10 minimum)
6112	Junior Colleges	1 per 1.5 Students 1 per Staff Member
6113	Colleges, Universities and Professional Schools	
6114	Business Schools and Computer and Management Training	
6115	Technical and Trade Schools	(10 minimum)



6116	Other Schools and Instruction	
6117	Educational Support Services	1 per 4 Students 1 per Staff Member (10 minimum)
621	Ambulatory Health Care Service	4 Minimum plus 1 per 400 s.f.
622	Hospitals	4 Minimum plus 1 per 2 Beds
623	Nursing and Residential Care Facilities	4 Minimum plus 1 per 2 Beds
6241 6242 6243	Individual and Family Services Community Food and Housing, and Emergency and Other Relief Services Vocational Rehabilitation Services	10 Minimum plus 1 per 300 s.f.
6244	Child Day Care Facility	1 per 5 Children 1 per Staff Member (4 Minimum)
711	Performing Arts, Spectator Sports, and Related Industries	10 Minimum plus 1 per 4 seats in assembly area
712	Museums, Historical Sites, and Similar Institutions	10 Minimum plus 1 per 500 s.f.
713	Amusement, Gambling, and Recreation Industries	10 Minimum plus 1 per 500 s.f.
72111	Accommodations	4 Minimum plus 1 per Rental Room
72119	Bed and Breakfast Inns	2 Minimum plus 1 per each Rental Room
722	Food Services and Drinking Places	1 per 100 (10 minimum)
8111	Automotive Repair and Maintenance	4 Minimum plus 2 per service stall
8112 8113 8114	Electronic and Precision Equipment Repair and Maintenance Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance Personal and Household Goods Repair and Maintenance	4 Minimum plus 2 per 1,000 s.f. of shop area
812	Personal and Laundry Services	4 Minimum plus 4 per 1,000 s.f. retail space
8131	Religious Organizations	10 Minimum plus 1 per 4 seats in assembly hall
8132 8133	Grantmaking and Giving Services Social Advocacy Organizations	4 Minimum plus 1 per 300 s.f.
8134	Civic and Social Organizations	10 Minimum plus 1 per 200 s.f. in excess of 2,000 s.f.
8139	Business, Professional, Labor, Political, and Similar Orgaizations	4 Minimum plus 1 per 300 s.f.
814110	Households, Private, Employing (Including single-family, attached or detached townhouses, duplexes, manufactured housing, patio homes, modular housing and up to four unit multifamily)	2 per Dwelling Unit
814110	Multifamily including condominiums  Multifamily (Senior Only) including condominiums	1 per Efficiency Unit 1.5 per 1 Bedroom  2 per 2 Bedroom 2.5 per 3 Bedroom 1 per Efficiency Unit 1 per 1 Bedroom 1.5 per 2 Bedrooms 2 per 3 Bedrooms

		1 Visitor per 10 Units
92	Public Administration	1 per 300 s.f.

Footnotes:

- These numbers are the minimum required regardless of building or use size.
- Product inventory cannot utilize required parking per the provisions of this section.
- Parking requirements of this section must be accommodated on-site and may not include street parking, with the exception of uses in the Main Street District with Overlay and Mixed Use District.

**Sec. 106-840. Off-street loading berth requirements.**

- (a) *Purpose.* The regulation of loading spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public. By establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.
- (b) *Location.*
- (1) All required loading berths shall be off-street and located on the same lots as the building or use to be served.
  - (2) All loading berth curb cuts shall be located at minimum 50 feet from the intersection of two or more street rights-of-way. This distance shall be measured from the property lines common with the right-of-way lines.
  - (3) No loading berth area shall be closer than 30 feet from a residential district unless within a structure.
  - (4) Loading berths shall not occupy the front yard setback or side yard setback if adjacent to a street right-of-way.
  - (5) Each loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.
- (c) *Surfacing.* All loading berths and access ways shall be surfaced in conformance with the public improvements criteria manual to control the dust and drainage according to a plan submitted and subject to the approval of the planning director.
- (d) *Accessory use, parking and storage.* Any space allocated as a required loading berth or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, or inoperable vehicles and shall not be included as part of the space necessary to meet the off-street parking area requirements.
- (e) *Screening.* Except in the case of multiple dwellings all loading areas shall be screened and landscaped from abutting and surrounding residential uses in compliance with the following:
- (1) A planting strip shall consist of evergreen groundcover, and shall be of sufficient width and density to provide an effective screen. The planting strip shall contain no structures or other use. Such planting strip shall not be less than six feet in height. Earth mounding or berms may be used, but shall not be used to achieve more than two feet of the required screen.
  - (2) Standards:
    - a. *Width of planting strip:* Four feet.
    - b. *Type of planting:* Evergreen.
    - c. *Size of plants:* Minimal height of four feet at time of planting. Must reach a height of six feet within two years.
    - d. *Planting density:* Such that within two years of normal growth, a solid screen will be formed to a height of at least six feet above adjacent grade.

- (3) Screening will be required in the following situations:
  - a. Parking areas for recreational buildings, community centers, religious, and private and public educational institutions.
  - b. Manufactured housing parks and subdivisions screened from abutting uses.
- (4) Required screening will count toward the required percentage of landscaping.
- (f) *Size.* Unless otherwise specified in these zoning regulations the first loading berth shall be not less than 55 feet in length and additional berths required shall be not less than 30 feet in length and all loading berths shall be not less than ten feet in width and 14 feet in height, exclusive of aisle and maneuvering space.
- (g) *Number of loading berths required.* The number of required off-street loading berths shall be as follows:
  - (1) *Manufactured, fabrication, processing, warehousing, storing, retail sales, schools and hotels.* For such a building 10,000 to 100,000 square feet of floor area, one loading berth 55 feet in length, and one additional berth for each additional 50,000 square feet or fraction thereof.
  - (2) *Auditorium, convention hall, exhibition hall, sports arena or stadium.* Ten thousand to 100,000 square feet of floor area, one loading berth; for each additional 100,000 square feet of floor area or fraction thereof, one additional loading berth.
  - (3) *Public or semi-public recreational buildings, community centers, private and public educational institutions, religious institutions, hospital, clinics, professional and commercial offices.* One off-street loading and service entrances shall be provided, sized to meet the needs of the facility.
  - (4) *Nursing homes and similar group housing serving in excess of 16 persons.* One off-street loading space, sized to meet the needs of the facility.

**Secs. 106-841—106-870. Reserved.**

## **ARTICLE VII. SIGNS**

### **Sec. 106-871. General provisions.**

- (a) All signs shall be erected, displayed and maintained in compliance with the requirements of this article and all other applicable state laws and city ordinances. If there is a conflict between the regulations of this article and a state law, city ordinance, or codes adopted by ordinance, the most restrictive standard applies and controls. All signs not expressly allowed by this chapter are prohibited.
- (b) No sign nor part of any sign may have lights which flash, move or rotate in such a manner as to be confused with traffic control signals or emergency vehicle signals, or in a manner that confuses, misleads or distracts traffic motorists. Beacons may not be placed on any sign or be made a part of any sign. Additionally, no sign that resembles an official traffic control sign, signal or device or that bears the words stop, go slowly, caution, danger, detour, or other wording for traffic control signs or devices may be used within the city.
- (c) All signs shall be properly and continuously maintained so as not to become a safety hazard or detract from the appearance of adjoining properties.
- (d) All areas immediately below and within a radius of 15 feet shall be properly maintained. This includes maintenance of all vegetation to the standards set forth in section 34-126 et seq.
- (e) With the exception of permitted temporary signs, no sign may be placed on or over a public right-of-way, whether used or unused, a utility easement, or on utility poles.

- (f) Placement of signs shall be in accordance with the visibility triangle requirements of section 106-311 (Visibility triangle).
- (g) Any sign in violation of any provisions of this chapter is subject to immediate removal by the city.

#### **Sec. 106-872. Portable signs.**

- (a) Portable signs may be located in the high density residential (R-3), manufactured housing (MH), commercial recreation (CR), neighborhood commercial (NC), general commercial (GC), business industrial (BI), light industrial (LI), and heavy industrial (HI) zoning districts.
- (b) A portable sign may not stand on any premise for more than 30 consecutive days at a time or for more than 60 days in any calendar year without a period of at least 20 intervening days.
- (c) Lighted portable signs shall be constructed and installed in accordance with the requirements of the city's electrical code. Portable signs with red, yellow, amber, green, or blue lights or with lights that flash, blink, or vary in intensity are prohibited.
- (d) Portable signs must comply with the setback requirements that would apply to on-premises signs in the zoning district in which the portable sign is to be located. Portable signs may not be placed on public right-of-way and may not be placed in such a manner as to create a hazard to traffic.
- (e) A portable sign must be tied down or secured in a manner prescribed by the building official to ensure the safe installation of said sign.
- (f) A portable sign, during the required intervening periods, must be completely removed from public view. Removal of the lettering is not considered to be in compliance with this section.
- (g) All damaged portable signs must be removed within 48 hours of notification by the city until such sign has been repaired.
- (h) Portable signs shall be used for on-premises use only.
- (i) Nothing in this section shall apply to political advertising.
- (j) Portable signs are to be permitted through the building official of the city consistent with the provisions of this chapter. Permitted portable signs shall have securely affixed and plainly visible a sticker, in form prescribed by the city showing the date the permit was issued, and the date the permit is to expire. Portable signs shall also contain on both faces the date of expiration of the current permit.
- (k) Portable signs located on premises in violation of any of the provisions of this chapter, including the requirement that portable signs have attached a validly issued, current permit from the city are subject to immediate removal by the city.
- (l) Portable signs removed by the city in accordance with this article shall be safely and securely stored by the city. Portable signs removed and stored by the city may be redeemed by their owner upon the payment of a storage fee established by the city council and listed in appendix A. Signs not redeemed from storage may be sold by the city in accordance with laws regulating sale of abandoned property.
- (m) Nothing in this article shall be construed as a waiver by the city on the penal enforcement of this chapter. The remedies provided in this article shall be in addition to, and not cumulative of, other remedies the city might have as allowed in this chapter and state law.

#### **Sec. 106-873. Political signs.**

Temporary political signs placed for the duration of an election campaign shall not be subject to the requirements of this chapter except that:

- (1) No political sign shall be placed within a sight triangle or in a manner which will otherwise create a traffic hazard.
- (2) No political sign shall be placed on or over a public right-of-way, whether used or unused, a utility easement or on utility poles.
- (3) All portable signs used for political advertising shall be anchored in a manner which will prevent their being blown about by a strong wind.
- (4) All political signs shall be removed no later than ten days after the election for which they were placed. In the case of run-off elections, political signs may remain in place no longer than ten days following the run-off.

#### **Sec. 106-874. On-premises signs.**

(a) *Freestanding on-premises signs.*

(1) *General provisions.*

- a. These regulations shall apply to freestanding signs only.
- b. Multiple reader panels mounted on a single base shall be considered to be a single sign.
- c. For the purposes of this section, a multitenant building shall be considered to be a single establishment and shall be restricted to freestanding advertising signage in accordance with the regulations governing such signs.
- d. Separate buildings located on a single piece of property may be considered to be separate business establishments with each building being eligible for freestanding advertising in accordance with these regulations.
- e. The number of on-premises freestanding nonadvertising signs intended to direct traffic and not exceeding six square feet in size shall not be limited by this section.
- f. On-premises real estate signs are allowed and shall be exempt from all other provisions of [section 106-874](#) (On-premise signs).

(2) *R-1, R-2, R-3, LL and MH districts.*

- a. One freestanding identification sign is permitted for townhouses, multifamily developments, group care facilities (not located within a residential neighborhood), subdivisions, education and religious facilities.
- b. For a bed and breakfast facility one sign not exceeding three square feet in area and nonilluminated shall be allowed. This sign may be either mounted on the building or located in a landscaped portion of the yard.
- c. For a home occupation facility one sign not exceeding two square feet in area and nonilluminated shall be allowed. This sign shall be mounted flat against the wall of the principal building.
- d. The size of the sign may not exceed 150 square feet.
- e. There are no minimum yard setbacks.
- f. The maximum height is 45 feet.

(3) *CR, NC, and GC districts.*

- a. One freestanding advertising sign shall be permitted for each side of a commercial establishment which fronts on a developed right-of-way.
- b. The following size limitations apply:
  1. Freestanding signs for single tenant buildings: 150 square feet.

2. Freestanding signs for single tenant buildings in a controlled access corridor: 300 square feet.
  3. Freestanding signs for multitenant buildings: 350 square feet.
  - c. The following minimum yard setbacks apply:
    1. When not adjacent to residentially zoned property, there are no minimum setbacks.
    2. When adjacent to residentially zoned property, there are minimum side and rear yard setbacks of five feet.
  - d. The following height limitations apply:
    1. Freestanding signs: 45 feet.
  - e. Freestanding signs in a controlled access corridor: 65 feet.
- (4) *MS district and overlay.*
- a. Pre-existing, nonconforming signs listed at the following locations within the overlay and Main Street District existing as of the effective date of this ordinance are considered legal, grandfathered, and may continue as such in accordance with the specifications, regulations, and conditions of this ordinance. The city accepts no liability for any damages to any signs within public right-of-way or easement. The city also reserves the rights to enter into, maintain, and utilize all common use public utility easements and public rights-of-way to promote the health, safety, morals or general welfare of the community and the safe, orderly, and healthful development of the city.
    1. 101 E. Main.
    2. 201 E. Main.
    3. 115 W. Main.
    4. 208 W. Main.
    5. 306 W. Main.
    6. 521 W. Main.
    7. 616 W. Main.
    8. 718 W. Main.
    9. 820 W. Main.
    10. \*107 N. 8<sup>th</sup>.
    11. \*105 Highway 146 S.
    12. \*117 Highway 146 S.
    13. \*120 Highway 146 N.
  - b. Pre-existing, nonconforming signs listed in subsection (a) above are exempted from the terms, conditions, and effects of [section 106-262](#) (Nonconforming structures). An inventory of such pre-existing signs will be required to document existing specifications, i.e. height, face, size, and other dimensional measurements.
    - i. Pre-existing signs may be repaired, maintained, and/or replaced, but may not be enlarged.
    - ii. All signs and sign support structures shall be maintained at all times in a state of good repair. The sign components shall be reasonably free of rust, painted if needed, and structurally sound.

- iii. \*Controlled access corridor signs on properties within the Main Street District/Overlay that have frontage along State Highway 146 shall be maintained as per provisions of [section 106-874\(a\)\(3\)a., b., and e](#) (On-premise signs). In addition, signs on other properties within Main Street District/Overlay between SH 146 and 8<sup>th</sup> Street shall be maintained as per provisions of [section 106-874\(a\)\(3\)a., b., and d](#) (On-premise signs).
  - c. Any new on-premises freestanding signs, which shall only be permitted on those properties where a building is already existing and is setback from the front property line, shall be a ground sign that is a minimum height of 10 feet from the bottom of the sign and a maximum height of 14 feet and cannot exceed 24 square feet in area. (Note: In accordance with [section 106-878\(b\)\(2\)](#), sign not exceeding eight feet in height do not have to be engineered.)
  - d. A city permit shall be required prior to any new signage.
  - e. A city approved sign design may be eligible for city participation under the Main Street Incentive Reimbursement Grant Funds.
- (6) *BI, LI, and HI districts.*
- a. One freestanding advertising sign shall be permitted for each side of a commercial establishment which fronts a developed right-of-way.
  - b. The following size limitations apply:
    - 1. Freestanding signs for single tenant buildings: 150 square feet.
    - 2. Freestanding signs for single tenant buildings in controlled access corridors: 300 square feet.
    - 3. Freestanding signs for multi-tenant buildings: 350 square feet.
  - c. The following minimum yard setbacks apply:
    - 1. When not adjacent to residentially zoned property, there are no minimum setbacks.
    - 2. When adjacent to residentially zoned property, there are minimum side and rear setbacks of five feet.
  - d. The following height limitations apply:
    - 1. Freestanding signs: 45 feet.
    - 2. Freestanding signs in controlled access corridors: 65 feet.
- (b) *Attached on-premises signs.*
- (1) *General provisions.*
    - a. One attached sign per building wall may be displayed for each occupant or use on the premises.
    - b. These regulations do not apply to building addresses or supplemental signs for the purpose of identifying the apartment buildings or units.
  - (2) *R-1, R-2, R-3, LL and MH districts.*
    - a. The size of the sign may not exceed three square feet.
    - b. No portion of the sign may have a luminous greater than 200 foot-candles and may not move, flash, rotate or change illumination.
  - (3) *CR, NC, GC, BI, LI, and HI districts.*
    - a. The cumulative size of the signs may not exceed 15 percent of the wall area.
    - b. If located closer than 50 feet to an R-1, R-2, or MH district, the sign may not flash and must be designed so that it does not shine or reflect light into adjacent residences.

- c. One attached canopy sign may be displayed. Such sign shall not exceed 30 percent of the canopy area. Such sign must be contained within the physical limits of the canopy and shall not extend above or below the canopy.
- (4) *MS districts.*
- a. Signage shall not exceed 1.5 square feet for every one-foot of façade width.
  - b. If located closer than 50 feet to an R-1, R-2, or MH district, the sign may not flash and must be designed so that it does not shine or reflect light into adjacent residences.
  - c. Internal illumination and back lighted signs are not permitted.
  - d. Window signage shall be limited to 20% coverage of the total glass area of the window.
  - e. Exposed florescent lighting, internal illumination, and back lighted signs are not permitted. Neon and other tubular illumination may be utilized in a limited amount.
- (5) *MU district.*
- a. One sign is permitted not to exceed 32 square feet.
  - b. No portion of the sign may have a luminous greater than 200 foot-candles and may not move, flash, rotate or change illumination.
  - c. If located closer than 100 feet to an R-1, R-2, or MH district, the sign may not flash and must be designed so that it does not shine or reflect light into adjacent residences.
  - d. Exposed florescent lighting, neon and other tubular illumination, internal illumination, and back lighted signs are not permitted.

**Sec. 106-875. Off-premises signs.**

- (a) Off-premises freestanding advertising signs may be erected in the BI, LI, and HI zoning districts.
- (b) Off-premises freestanding public service signs may be erected in the GC, BI, LI, and HI zoning districts.
- (c) Off-premises signs within the right-of-way may be attached to the face of the building and project into the West Main Street portion of Main Street Overlay as follows:
  - (1) Maximum six-foot encroachment/projection into the right-of-way.
  - (2) Maximum of one projection sign per business allowed.
  - (3) Completed right-of-way license agreement with the city.
- (d) The following size limitations shall apply to all off-premises freestanding signs:
  - (1) In controlled access corridors, the size limitations shall be set by the Texas Highway Beautification Act.
  - (2) On all other streets, the maximum size shall be 300 square feet and may not have more than two sign faces.
- (e) An off-premises sign must be located at least 50 feet from an existing freestanding on-premises sign.
- (f) Off-premises signs, when illuminated, must be constructed with upward shielded directional illumination.
- (g) The following height limitations shall apply:
  - (1) Off-premises public service signs: 18 feet.
  - (2) Off-premises advertising signs: 45 feet.



- (h) All off-premises freestanding advertising signs shall be spaced in intervals of not less than 1,000 feet.

**Sec. 106-876. Subdivision marketing signs.**

- (a) For the purpose of marketing a recorded subdivision, one on-premises freestanding sign of not more than 150 square feet for each road abutting the respective subdivision shall be permitted, provided that such sign shall not be placed within any required yard nor within 25 feet of any property line abutting a street or road right-of-way, and further provided that such sign shall not exceed 20 feet in height.
- (b) For the purpose of marketing a recorded subdivision, one off-premises sign of not more than 150 square feet may be permitted for each recorded subdivision in any zoning district. Such sign shall not be placed within 25 feet of any property line and shall not exceed 20 feet in height. The permit for such sign shall expire, unless renewed, two years after the date of issuance of such permit, and provided that each request for permit shall be accompanied by a license and permit fee posted by the respective sign hanger in the amount of \$300.00 for the purpose of ensuring proper location, maintenance, and removal of the respective sign.
- (c) Must be in compliance with visibility triangle requirements specified in section 106-805 (Visibility triangles).

**Sec. 106-877. Temporary signs.**

- (a) Subject to the provision of this section, temporary signs are prohibited except in the following instances:
  - (1) Temporary signs shall be a maximum of 18 inches by 24 inches in size and constructed of all-weather corrugated plastic sheeting with a wooden stake or greater as support.
  - (2) Temporary signs may only be placed between the hours of 5:00 p.m. on Friday and 7:00 p.m. on the following Sunday.
  - (3) Temporary signs shall be free of balloons, banners, or streamers.
- (b) Location of temporary signs:
  - (1) Temporary signs shall not be placed in a manner that will interfere with a ~~site~~ visibility triangle or otherwise create a traffic hazard as referenced in section 106-805 (Visibility triangles).
  - (2) Temporary signs may not be located within five feet of the edge of any pavement.
  - (3) Temporary signs may only be placed at the following locations within the city, with a maximum of two temporary signs permitted at any one time at any specified intersection:
    - SH 146 at Fairmont (northeast, southwest and southeast corners)
    - SH 146 at Wharton Weems (northeast and southeast corners)
    - SH 146 at McCabe (northeast corner and feeder and southeast corner of northbound SH 146 and McCabe)
    - SH 225 at Underwood (southwest corner of Underwood eastbound lane and southeast corner of Underwood eastbound lane of SH 225)
    - SH 225 at Sens (northwest and northeast corners SH 225 and southwest corner of SH 225 on westbound feeder on Sens)
    - Spencer at Sens (northwest and northeast corners SH 225 and southwest corner of SH 225 on westbound feeder on Sens)

Spencer at Sens (northwest and southeast corners)

Spencer at Valleybrook (southeast corner)

Spencer at Driftwood (southeast corner) Spencer at Luella (southeast corner)

Fairmont at Luella (northwest corner Luella, eastbound lane W. Fairmont)

Fairmont at Driftwood (northwest corner westbound on Fairmont)

S. Broadway at Fairmont (northwest and southwest corners)

S. Broadway at Wharton Weems (northwest and southwest corners)

N. "L" at Underwood (northeast and southeast corners)

Bay Area Blvd. at Fairmont (northwest corner of Bay Area Blvd. and eastbound lane on W. Fairmont and southeast corner of Bay Area Blvd. eastbound lane on W. Fairmont)

(c) Temporary sign permits:

- (1) No temporary sign may be erected within the city limits of the City of La Porte without a permit first having been obtained from the building official.
  - (2) Application for temporary sign permits shall be made upon forms provided by the building official, and shall contain and be accompanied by information sufficient to identify the location of the proposed sign, consistent with the location criteria established in subsection (b)(2) above.
  - (3) No person shall be issued a temporary sign permit under this section until such person has filed with the city secretary a bond or insurance policy, or both, in the amount of \$200.00 per sign approved, in form approved by the city attorney, such bond or policy to be conditioned on the placement of temporary signs in accordance with the provisions of this article, the other ordinances of the City of La Porte, and further providing for the indemnification of the city for any and all damages or liability that may accrue to or against the city by reason of the placement, maintenance, alteration, repair or removal, or defects in any temporary sign erected by or under the direction of such applicant, and further providing for the indemnification of any person who shall, while on public property or public right-of-way of the City of La Porte, incur damages for which the person erecting any such temporary sign is legally liable by reason of his act or omission in regard to erection of such temporary signage.
  - (4) No permit issued under this ordinance shall be transferable.
- (d) Number of temporary sign permits: No permittee for a temporary sign may obtain a permit for placement of more than two temporary signs at any one particular location specified in section 106-877(b) (Temporary signs) above with a maximum of ten temporary signs per permittee, and a maximum of two temporary signs per permittee per location.
- (e) Further limitations on permit: No permittee may obtain permits for location of temporary signs for more than four consecutive weeks. Upon the expiration of four consecutive weeks of permits for a particular permittee, no permit shall be issued by the city for any temporary signs for 30 days following said four consecutive week period.
- (f) Revocation of permit: Upon learning of any violation of this article or the ordinances of the City of La Porte by any temporary sign permit holder, the building official shall give notice of said violation to the responsible permit holder. Two or more violations of this article, or other ordinances of the City of La Porte shall result in denial of future temporary sign permits to the responsible permittee by the City of La Porte.

### **Sec. 106-878. Permits.**

- (a) Any person desiring to erect or place a freestanding, attached or portable sign on any property shall first apply to the building official for a permit. With the exception of temporary sign permits as specified above, permits are not required for signs less than five square feet in area. Permits are not required for signs less than five square feet in area.
- (b) Any person applying to erect or place a freestanding sign on any property shall submit to the building official the following information:
  - (1) A survey of the property which indicates the proposed sign location.
  - (2) An engineered design for signs greater than eight feet in height.
  - (3) A design of the sign and its support member for signs less than eight feet in height.
- (c) Permit fees shall be established by the city council and listed in appendix A.

### **Sec. 106-879. Enforcement.**

Any violation of this article shall be subject to the penalties provided in [section 106-6](#) (Penalties for violations).

### **Secs. 106-880—106-889. Reserved.**

## **ARTICLE VIII. TELECOMMUNICATIONS TOWERS AND FACILITIES**

### **Sec. 106-890. Definitions.**

[The following words, terms and phrases, as used in this article, shall have the meanings respectively ascribed to them in this section, unless the context clearly indicates otherwise:]

*Antenna support structure* means any building or structure other than a tower which can be used for location of telecommunications facilities.

*Applicant* means any person that applies for a tower development permit.

*Application* means the process by which the owner of a parcel of land within the city submits a request to develop, construct, build, modify, or erect a tower upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to the city concerning such a request.

*Engineer* means any engineer licensed by the State of Texas.

*Owner* means any person with fee title or a long-term (exceeding ten years) leasehold to any parcel of land within the city who desires to develop, or construct, build, modify, or erect a tower upon such parcel of land.

*Person* is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

*Site plan review committee* means a committee composed of staff members of the city, responsible for reviewing and recommending plans submitted pursuant to this article, including individuals designated by the director of planning (usually being the chief building official and the city engineer), the fire marshal, and the director of public works. The building official is responsible for chairing meetings of the site plan review committee, and making reports of the results of said meetings. Duly designated representatives of the members of the site plan review committee may serve in the stead of the aforementioned members of the committee.

*Stealth* means any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.

*Telecommunications facilities* means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

- (1) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or
- (2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

*Tower* means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports telecommunications facilities. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

### **Sec. 106-891. Purpose.**

The general purpose of this article is to regulate the placement, construction, and modification of towers, antennas, support structures and telecommunications facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city.

Specifically, the purposes of this article are:

- (a) To regulate the location of towers and telecommunications facilities in the city;
- (b) To protect residential areas and land uses from potential adverse impact of towers and telecommunications facilities;
- (c) To minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques;
- (d) To promote and encourage shared use/collocation of towers and antenna support structures as a primary option rather than construction of additional single-use towers;
- (e) To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new tower structures to support antenna and telecommunications facilities;
- (f) To avoid potential damage to property caused by towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and
- (g) To ensure that towers and telecommunications facilities are compatible with surrounding land uses.

### **Sec. 106-892. Development of towers.**

- (a) *A tower shall be a permitted use of land in zoning district H-1.* No person shall build, erect, or construct a tower upon any parcel of land within a zoning district designated H-1 unless a development permit shall have been issued by the site plan review committee of the city. Application shall be made to the site plan review committee in the manner provided in this chapter.
- (b) *A tower shall be a conditional use of land in zoning districts B-1 and L-1.* No person shall build, erect, or construct a tower upon any parcel of land within any zoning district set forth above unless a development permit shall have been issued by the site plan review committee of the city and approval of the city planning and zoning commission is obtained.

- (c) Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of 150 feet. Towers may be permitted in excess of 150 feet in accordance with section 106-906 (Criteria for site plan development modifications).
- (d) No new tower shall be built, constructed, or erected in the city unless the tower is capable of supporting another person's operating telecommunications facilities comparable in weight, size, and surface area to the telecommunications facilities installed by the applicant on the tower within six months of the completion of the tower construction.
- (e) An application to develop a tower shall include:
  - (1) The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner shall be evidenced in the application.
  - (2) The legal description, folio number, and address of the parcel of land upon which the tower is situated.
  - (3) The names, addresses, and telephone numbers of all owners of other towers or usable antenna support structures within a one-half mile radius of the proposed new tower site, including city-owned property.
  - (4) A description of the design plan proposed by the applicant in the city. Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The applicant must demonstrate the need for towers and why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the applicant's telecommunications services.
  - (5) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to obtain permission to install or collocate the applicant's telecommunications facilities on city-owned towers or usable antenna support structures located within a one-half mile radius of the proposed tower site.
  - (6) An affidavit attesting to the fact that the applicant made diligent, but unsuccessful, efforts to install or collocate the applicants telecommunications facilities on towers or usable antenna support structures owned by other persons located within a one-half mile radius of the proposed tower site.
  - (7) Written technical evidence from an engineer(s) that the proposed tower or telecommunications facilities cannot be installed or collocated on another person's tower or usable antenna support structures owned by other persons located within one-half mile radius of the proposed tower site.
  - (8) A written statement from an engineer(s) that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and nonresidential properties.
  - (9) Written, technical evidence from an engineer(s) that the proposed structure meets the standards set forth in section 106-894 (Structural requirements), of this article.
  - (10) Written, technical evidence from a qualified engineer(s) acceptable to the fire marshal and the building official that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
  - (11) In order to assist city staff and the planning and zoning commission in evaluating visual impact, the applicant shall submit color photo simulations showing the proposed site of the tower with a photo-realistic representation of the proposed tower as it would appear viewed from the closest residential property and from adjacent roadways.

- (12) The act gives the FCC sole jurisdiction of the field of regulation of RF emissions and does not allow the city to condition or deny on the basis of RIF impacts the approval of any telecommunications facilities (whether mounted on towers or antenna support structures) which meet FCC standards. In order to provide information to its citizens, the city shall make available upon request copies of ongoing FCC information and RF emission standards for telecommunications facilities transmitting from towers or antenna support structures. Applicants shall be required to submit information on the proposed power density of their proposed telecommunications facilities and demonstrate how this meets FCC standards.
- (f) The site plan review committee may require an applicant to supplement any information that the committee considers inadequate or that the applicant has failed to supply. The committee may deny an application on the basis that the applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the city in a prompt manner and all decisions shall be supported in writing setting forth the reasons for approval or denial.

### **Sec. 106-893. Setbacks.**

- (a) All towers up to 100 feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of 100 feet in height shall be set back one additional foot per each foot of tower height in excess of 100 feet.
- (b) Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel of land on which it is located.
- (c) Setback requirements may be modified, as provided in section 106-906(b)(1), (Criteria for site plan development modifications) when placement of a tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the tower.

### **Sec. 106-894. Structural requirements.**

All towers must be designed and certified by an engineer to be structurally sound and, at minimum, in conformance with the building code, and any other standards outlined in this article. All towers in operation shall be fixed to land.

### **Sec. 106-895. Separation of buffer requirements.**

For the purpose of this section, the separation distances between towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed tower. Tower separation distances from residentially zoned lands shall be measured from the base of a tower to the closest point of residentially zoned property. The minimum tower separation distances from residentially zoned land and from other towers shall be calculated and applied irrespective of city jurisdictional boundaries.

- (a) Towers shall be separated from all residentially zoned lands by a minimum of 200 feet or 200 percent of the height of the proposed tower, whichever is greater.
- (b) Proposed towers must meet the following minimum separation requirements from existing towers or towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Code:
- (1) Monopole tower structures shall be separated from all other towers, whether monopole, self-supporting lattice, or guyed, by a minimum of 750 feet.
  - (2) Self-supporting lattice or guyed tower structures shall be separated from all other self-supporting or guyed towers by a minimum of 1,500 feet.
  - (3) Self-supporting lattice or guyed tower structures shall be separated from all monopole towers by a minimum of 750 feet.

### **Sec. 106-896. Method of determining tower height.**

Measurement of tower height for the purpose of determining compliance with all requirements of this section shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto which extend more than 20 feet over the top of the tower structure itself. Tower height shall be measured from grade.

### **Sec. 106-897. Illumination.**

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a tower, in cases where there are residential uses located within a distance which is 300 percent of the height of the tower from the tower and when required by federal law, dual mode lighting shall be requested from the FAA.

### **Sec. 106-898. Exterior finish.**

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the site plan review committee.

### **Sec. 106-899. Landscaping.**

All landscaping on a parcel of land containing towers, antenna support structures, or telecommunications facilities shall be in accordance with the applicable landscaping requirements in the zoning district where the tower, antenna support structure, or telecommunications facilities are located. The city may require landscaping in excess of the requirements in the City Code in order to enhance compatibility with adjacent land uses. Landscaping shall be installed and maintained on the outside of any fencing.

### **Sec. 106-900. Access.**

A parcel of land upon which a tower is located must provide access to at least one paved vehicular parking space on-site.

### **Sec. 106-901. Stealth design.**

All towers which must be approved as a conditional use shall be of stealth design.

### **Sec. 106-902. Telecommunications facilities on antenna support structures.**

Any telecommunications facilities which are not attached to a tower may be permitted on any antenna support structure at least 50 feet tall, regardless of the zoning restrictions applicable to the zoning district where the structure is located. Telecommunications facilities are prohibited on all other structures. The owner of such structure shall, by written certification to the zoning administrator, establish the following at the time plans are submitted for a building permit:

- (a) That the height from grade of the telecommunications facilities shall not exceed the height from grade of the antenna support structure by more than 20 feet;
- (b) That any telecommunications facilities and their appurtenances, located above the primary roof of an antenna support structure, are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement shall not apply to telecommunications facilities and their appurtenances, located above the primary roof of

an antenna support structure, if such facilities are appropriately screened from view through the use of panels, walls, fences, or other screening techniques approved by the city. Setback requirements shall not apply to stealth antennas which are mounted to the exterior of antenna support structures below the primary roof, but which do not protrude more than 18 inches from the side of such an antenna support structure.

### **Sec. 106-903. Modification of towers.**

- (a) A tower existing prior to the effective date of this article, which was in compliance with the city's zoning regulations immediately prior to the effective date of this article, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this section, except for sections 106-895 (Separation of buffer requirements) section 106-904 (Certification and inspections) and section 106-905 (Maintenance),-provided:
  - (1) The tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within six months of the completion of the modification or rebuild, additional telecommunications facilities comparable in weight, size, and surface area to the discrete operating telecommunications facilities of any person currently installed on the tower.
  - (2) An application for a development permit is made to the site plan review committee which shall have the authority to issue a development permit without further approval. The grant of a development permit pursuant to this section allowing the modification or demolition and rebuild of an existing nonconforming tower shall not be considered a determination that the modified or demolished and rebuilt tower is conforming.
  - (3) The height of the modified or rebuilt tower and telecommunications facilities attached thereto do not exceed the maximum height allowed under this article.
- (b) Except as provided in this section, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than 180 days. This article shall not be interpreted to legalize any structure or use existing at the time this article is adopted which structure or use is in violation of the code prior to enactment of this article.

### **Sec. 106-904. Certifications and inspections.**

- (a) All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the building code and all other construction standards set forth by the city's Code and federal and state law. For new monopole towers, such certification shall be submitted with an application pursuant to section 106-892 (Development of towers) of this article and every five years thereafter. For existing monopole towers, certification shall be submitted within 60 days of the effective date of this article and then every five years thereafter. For new lattice or guyed towers, such certification shall be submitted with an application pursuant to section 106-892 (Development of towers) of this article and every two years thereafter. For existing lattice or guyed towers, certification shall be submitted within 60 days of the effective date of this article and then every two years thereafter. The tower owner may be required by the city to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.
- (b) The city or its agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the building code and all other construction standards provided by the City Code and federal and state law.
- (c) The city reserves the right to conduct such inspections at any time, upon reasonable notice to the tower owner. All expenses related to such inspections by the city shall be borne by the tower owner.



### **Sec. 106-905. Maintenance.**

- (a) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- (b) Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
- (c) All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
- (d) All maintenance or construction of towers, telecommunications facilities, or antenna support structures shall be performed by licensed maintenance and construction personnel.
- (e) All towers shall maintain compliance with current RF emission standards of the FCC.
- (f) In the event that the use of a tower is discontinued by the tower owner, the tower owner shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued.

### **Sec. 106-906. Criteria for site plan development modifications.**

- (a) Notwithstanding the tower requirements provided in this article, a modification to the requirements may be approved by the planning and zoning commission as a conditional use in accordance with the following:
  - (1) In addition to the requirement for a tower application, the application for modification shall include the following:
    - a. A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.
    - b. A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification.
    - c. A technical study that documents and supports the criteria submitted by the applicant upon which the request for modification is based. The technical study shall be certified by an engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.
    - d. For a modification of the setback requirement, the application shall identify all parcels of land where the proposed tower could be located, attempts by the applicant to contract and negotiate an agreement for collocation, and the result of such attempts.
    - e. The site plan review committee may require the application to be reviewed by an independent engineer under contract to the city to determine whether the antenna study supports the basis for the modification requested. The cost of review by the city engineer shall be reimbursed to the city by the applicant.
  - (2) The planning and zoning commission shall consider the application for modification based on the following criteria:
    - a. That the tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.
    - b. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.

- c. In addition, the commission may include conditions on the site where the tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed tower and mitigate any adverse impacts which arise in connection with the approval of the modification.
- (b) In addition to the requirements of subparagraph (a) of this section, in the following cases, the applicant must also demonstrate, with written evidence, the following:
  - (1) In the case of a requested modification to the setback requirement, section 106-893 (Setbacks), that the setback requirement cannot be met on the parcel of land upon which the tower is proposed to be located and the alternative for the person is to locate the tower at another site which is closer in proximity to a residentially zoned land.
  - (2) In the case of a request for modification to the separation and buffer requirements from other towers of section 106-895 (Separation of buffer requirements) that the proposed site is zoned "industrial" or "heavy industrial" and the proposed site is at least double the minimum standard for separation from residentially zoned lands as provided for in section 106-895 (Separation of buffer requirements).
  - (3) In the case of a request for modification of the separation and buffer requirements from residentially zoned land of section 106-895 (Separation of buffer requirements), if the person provides written technical evidence from an engineer(s) that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system and if the person is willing to create approved landscaping and other buffers to screen the tower from being visible to residentially zoned property.
  - (4) In the case of a request for modification of the height limit for towers and telecommunications facilities or to the minimum height requirements for antenna support structures, that the modification is necessary to:
    - a. Facilitate collocation of telecommunications facilities in order to avoid construction of a new tower; or
    - b. To meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer(s) that demonstrates that the height of the proposed tower is the minimum height required to function satisfactorily, and no tower that is taller than such minimum height shall be approved.

#### **Sec. 106-907. Abandonment.**

- (a) If any tower shall cease to be used for a period of 365 consecutive days, the city shall notify the owner, with a copy to the applicant, that the site will be subject to a determination by the city that such site has been abandoned. The owner shall have 30 days from receipt of said notice to show, by a preponderance of the evidence, that the tower has been in use or under repair during the period. If the owner fails to show that the tower has been in use or under repair during the period, the city shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the owner shall, within 75 days, dismantle and remove the tower.
- (b) To secure the obligation set forth in this section, the applicant [and/or owner] shall post a bond in an amount sufficient to secure the anticipated cost of removal of the abandoned tower, as determined by the city.

### **ARTICLE IX. DESIGN GUIDELINES**

#### **DIVISION 1. DESIGN GUIDELINES FOR GC, NC AND BI DISTRICTS**

##### **Sec. 106-925. Purpose and intent.**

- (a) *Purpose.* The purpose of this division is to establish minimum guidelines for the appearance of neighborhood commercial, general commercial, business industrial districts.
- (1) Buildings should directly contribute to the attractiveness, safety and function of the street and public areas.
  - (2) Buildings should be constructed in a manner, and with materials, that are highly durable and will continue to endure and be attractive over a long time, especially adjacent to public and pedestrian areas.
  - (3) It is intended by this Section, to encourage a variety of building and design solutions in response to the guidelines and regulations outlined herein.
- (b) *Intent.* It is the intent of these guidelines to promote high quality design in new development, thereby creating a sense of community identity. It is also intended to ensure commercial buildings are constructed in a manner that allows flexibility to accommodate a range of uses over time in order to avoid the need to demolish and rebuild for successive uses.

### **Sec. 106-926. Scope and enforcement.**

- (a) *Scope.* These provisions shall apply to all new development located in NC and GC districts adjacent to and along the following thoroughfares, roadways, and collector streets. All new developments and buildings located in BI districts adjacent to and along the following thoroughfares, roadways, and collector streets shall be applicable to Tier 3 only.
- (1) Tier 1. State Highway 146, except those properties zoned BI
  - (2) Tier 2. Spencer Highway, Fairmont Parkway, and South Broadway Street (Old Highway 146), West Main Street
  - (3) Tier 3. Barbours Cut Boulevard, North Broadway Street (Old Highway 146), Underwood Road, Bay Area Boulevard, Sens Road, Canada Road, East Main Street and Highway 225; including all properties zoned BI on said roads in this subsection as well as State Highway 146.
- (b) *Enforcement.* The provisions of this division shall be administered by the Director of Planning and Development or designee.
- (1) Existing buildings shall also conform to these requirements upon expansion of over one-third of an area of improvement/development.
  - (2) In case of structural damage to the front of the building due to fire, flood or other reasons, and the cost of redevelopment is in excess of 50 percent of the value (replacement cost by the certified appraisal) the structure shall conform to these ~~above~~ requirements.
  - (3) The standards and criteria contained within this section are deemed to be minimum standards and shall apply to buildings constructed after the effective date of this ordinance. Buildings constructed after the effective date of this ordinance shall at all times comply with the provision of this division and the version of the building design guidelines in force at the time of the building permit application.

### **Sec. 106-927. Review procedures.**

- (a) The provisions of this section shall be reviewed as part of the requirements of Section 106-236 (Certified site plan required).
- (b) Any waivers to the provisions of this section require approval by the Planning and Zoning Commission. The Planning and Zoning Commission may approve a waiver request subject to the following findings:
- (1) The project as designed is consistent with the general spirit and intent of the City of La Porte's Comprehensive Plan.
  - (2) The proposed building will result in an attractive contribution to the community.

### **Sec. 106-928. Architectural design guidelines.**

- (a) Building Form (Applicable to Tier 1 and 2)
- (1) All buildings shall be designed and constructed in tri-partite architecture so that they have

a distinct base, middle and top.



Examples of Single Story Tri-Partite

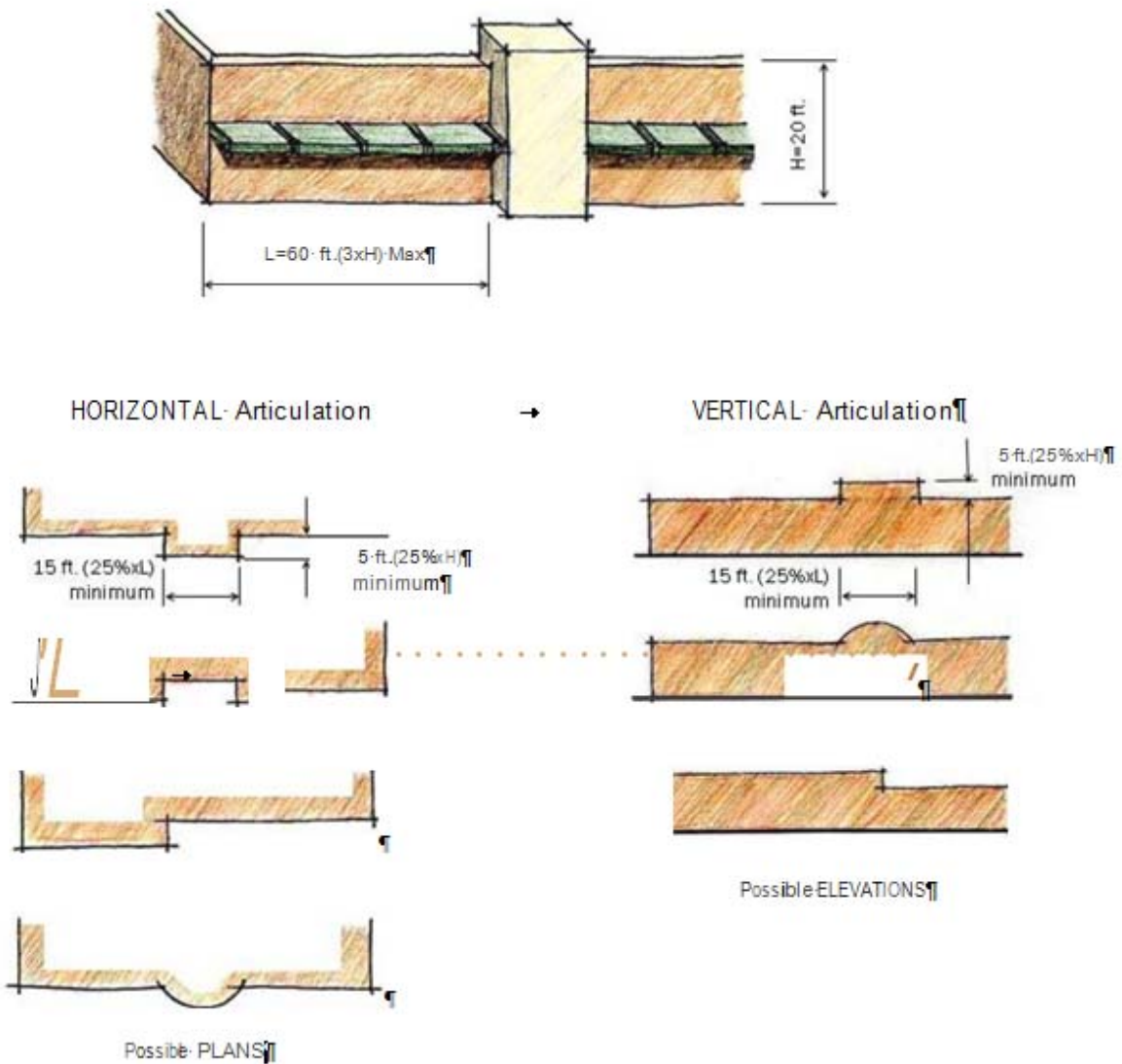


(b) Building Articulation (Applicable to Tier 1 and 2)

(1) Primary facades clearly visible from a public street or along an active storefront shall meet the following minimum standards for articulation:

- a. **Horizontal Articulation.** No building wall shall extend for a distance equal to 3 times the wall's height without having an off- set equal to 25% of the wall's height, and that new plane shall extend for a distance equal to at least 25% of the maximum length of the first plane.
- b. **Vertical Articulation.** No horizontal wall shall extend for a distance greater than 3 times the height of the wall without changing height by a minimum of 25% of the wall's height.

## BUILDING ARTICULATION EXAMPLES



(c) **Roofs (Applicable to Tier 1)**

(1) Where clearly visible from a public street or along active storefronts, any hip, gable or mansard roofs may only utilize the following materials: metal standing seam, slate, clay or concrete tile (barrel or Roman shape). Minimum 3 on 12 roof pitch required.

(d) **Architectural Design Elements**

(1) The following is a list of acceptable architectural design elements that must be included into the design of buildings as required in this section.

- a. Canopies, awnings, porticos with colonnade, or arcades
- b. Raised pilaster cornices (end columns at corner), or quoin corners
- c. Vertical elements (tower, cupola, lighthouse, turret, arches, etc)
- d. Windows and doors framed with smooth cobble, cast stone, limestone, or other decorative masonry headers and sills; or dormer windows
- e. Outdoor patios and/or courtyards (landscaped and furnished)
- f. Decorative ornamentation integrated into the building façade, such as corbels,

medallions (non-signage), functioning clocks, niches, wrought iron, balconettes, gargoyles, or horizontal and rhythm patterned brickwork; or other architectural features approved by the Director of Planning and Development or designee

g. Any other architectural design element approved by the Director of Planning and Development or designee

(2) Applicable to Tier 1, all structures shall be designed to incorporate no less than four of the architectural elements above. Buildings over 50,000 square feet must include a minimum of five of the referenced architectural elements in subsection d.1 above.

(3) Applicable to Tier 2, all structures shall be designed to incorporate no less than two of the architectural elements above. Buildings over 50,000 square feet must include a minimum of three of the referenced architectural elements in subsection d.1 above.

(4) Applicable to Tier 3, all structures shall be designed to incorporate no less than one of the architectural elements from the list in subsection d.1 above.

(e) Exterior Façade Materials

(1) Allowed exterior materials are categorized into the following three groups, of which at least two materials from different groups shall be used in all exterior facades in Tier 1, Tier 2, and Tier 3:

a. Group A: Brick and stone

b. Group B: Stucco, architectural concrete block with integrated color (split face CMU), factory primed cementitious fiberboard in the form of lap siding or board and batten, EIFS (above 14 feet from grade only), and painted, colored or stamped tilt-wall

c. Group C: Metal, tile, wood

(2) Prohibited exterior materials include cinder block, vinyl, plastic, aggregate pea-gravel finished surfaces, and pre-engineered metal building siding.

(3) Primary façade treatments are applicable to Tier 1 buildings. The following shall apply to all exterior walls of buildings which are clearly visible from a public street or along an active storefront:

a. Primary Facades, excluding windows, doors, and other openings, shall be constructed of at least 80% Group A materials and up to 20% Group B materials. However, accent materials from Group C may be allowed in limited application for architectural features as approved by the Director of Planning and Development or designee.

b. Buildings over 50,000 square feet may use Split-Face CMU (architectural block) for up to 20% of the primary façade, in addition to the 20% of Group B materials.

(4) Building color requirements are applicable to buildings in all tiers. The dominant color of all buildings shall be muted shades of color. Black and stark white shall not be used except as an accent color. There are no restrictions on accent colors which comprise less than 1.0% of the building face, except that florescent colors are prohibited.

**Sec. 106-929 - Sec. 106-934. Reserved.**

**DIVISION 2. DESIGN GUIDELINES FOR MU DISTRICT**

**Sec. 106-935. Purpose and intent.**

(a) *Purpose.* The purpose of this division is to establish minimum guidelines for the appearance of the mixed use district.

(1) Buildings should directly contribute to the surrounding residential neighborhood and maintain a residential character.

(2) Buildings should be constructed in a manner, and with materials, that are highly durable and will continue to endure and be attractive over a long time, especially adjacent to public and pedestrian areas.

(b) *Intent.* It is the intent of these guidelines to promote high quality design in new commercial or mixed residential/commercial development, and ensuring those structures contribute to the bayfront identity of the neighborhood. It is also intended to ensure those buildings are scaled and constructed in a manner that complements the existing residential uses

in the immediate vicinity.

**Sec. 106-936. Scope and enforcement.**

- (a) *Scope.* These provisions shall apply to all new commercial and mixed residential/commercial uses. Single family residential is not required to comply with these requirements.
- (b) *Enforcement.* The provisions of this division shall be administered by the Director of Planning and Development or designee.
  - (1) Existing buildings shall also conform to these requirement upon expansion of over one-third of an area of improvement/development.
  - (2) In case of structural damage to the front of the building due to fire, flood or other reasons, and the cost of redevelopment is in excess of 50 percent of the value (replacement cost by the certified appraisal) the structure shall conform to these requirements.
  - (3) The standards and criteria contained within this section are deemed to be minimum standards and shall apply to buildings constructed after the effective date of this ordinance. Buildings constructed after the effective date of this ordinance shall at all times comply with the provision of this division and the version of the building design guidelines in force at the time of the building permit application.

**Sec. 106-937. Review procedures.**

- (a) The provisions of this section shall be reviewed as part of the requirements of Section 106-236 (Certified site plan required).
- (b) Any waivers to the provisions of this section require approval by the Planning and Zoning Commission. The Planning and Zoning Commission may approve a waiver request subject to the following findings:
  - (1) The project as designed is consistent with the general spirit and intent of the City of La Porte's Comprehensive Plan.
  - (2) The proposed building will result in an attractive contribution to the community.

**Sec. 106-938. Architectural design guidelines.**

- (a) Exterior Façade Materials
  - (1) At least two of the following materials shall be used on all exteriors: brick, stone, stucco, architectural concrete block with integrated color (split-face CMU, factory primed cementitious fiberboard (in the form of lap siding or board and batten).
  - (2) Prohibited exterior materials include cinder block, vinyl, wood, plastic, aggregate pea-gravel finished surfaces, and pre-engineered metal building siding.
- (b) Building color requirements.
  - (1) The dominant color of all buildings shall be muted shades of color. Black and stark white shall not be used except as an accent color
  - (2) There are no restrictions to accent colors which comprise of less than 6% of the structure. However, in no instance shall florescent colors be permitted.
  - (3) Visible roof colors shall be a muted shade of cool gray, warm gray, brown or red.

**Sec. 106-939 - Sec. 106-944. Reserved.**

**DIVISION 3. DESIGN GUIDELINES FOR MS and MSO DISTRICT**

**Section 106-945. Purpose and intent.**

- (a) Purpose: These guidelines are intended to aid downtown property owners in La Porte to protect and enhance the historic resources of the community. The standards describe design ideas for appropriate alterations and new construction, and also provide basic maintenance tips.

- (1) To protect, enhance and perpetuate landmarks and districts of historical, cultural, architectural or archeological importance that reflect distinctive and important elements of the unique historical heritage of La Porte.
- (2) Foster civic pride by recognizing accomplishments of the past.
- (3) Protect and enhance the attractiveness of the City to tourists and visitors and support and stimulate the economy.
- (4) Insure the harmonious, orderly and efficient growth and development in the Main Street District.
- (5) Promote the economic prosperity and welfare of property owners in the Main Street District.
- (6) Encourage the stabilization, restoration and improvement of property and property values in the district.
- (7) Maintain a generally harmonious outward appearance of both historic and modern structures, which are compatible and complimentary in scale, form, color, proportion, texture and material.

(b) Intent: To capitalize on La Porte's urban design and architectural character, the following principles shall serve as a guide for future development in the Main Street District. In general, the buildings should have a pre-1930's appearance.

**Sec. 106-946. Scope and enforcement.**

(a) *Scope.* These provisions shall apply to all new commercial and mixed residential/commercial uses. Single family residential is subject to the provisions of Sec. 106-XXX(f) (Redevelopment Principles for Single-Family Dwellings).

(b) *Enforcement.* The provisions of this division shall be administered by the Director of Planning and Development or designee.

(1) Existing buildings shall also conform to these requirement upon expansion of over one-third of an area of improvement/development.

(2) In case of structural damage to the front of the building due to fire, flood or other reasons, and the cost of redevelopment is in excess of 50 percent of the value (replacement cost by the certified appraisal) the structure shall conform to these requirements.

(3) The standards and criteria contained within this section are deemed to be minimum standards and shall apply to buildings constructed after the effective date of this ordinance. Buildings constructed after the effective date of this ordinance shall at all times comply with the provision of this division and the version of the building design guidelines in force at the time of the building permit application.

**Sec. 106-947. Review procedures.**

(a) The provisions of this section shall be reviewed as part of the requirements of Section 106-236 (Certified site plan required).

(b) Any waivers to the provisions of this section require approval by the Planning and Zoning Commission. The Planning and Zoning Commission may approve a waiver request subject to the following findings:

(1) The project as designed is consistent with the general spirit and intent of the City of La Porte's Comprehensive Plan.

(2) The proposed building will result in an attractive contribution to the community.

**Sec. 106-948. Architectural design guidelines.**

(a) Setbacks and Height

(1) Building heights shall not exceed 3 stories.



- (2) Commercial buildings (in overlay) shall be built to the front property line and have the main entrance facing the primary street. Corner entrances are an acceptable alternative for corner buildings.
- (b) Massing
- (1) Long uninterrupted façade planes should not be constructed. Those façade planes should maintain the natural rhythm of the historic 25'-50' store fronts. A larger business may accomplish this visually by designing the exterior to resemble multiple storefronts.
  - (2) Building wall offsets (projections and recesses) and/or pilasters shall be used to break up the mass of a single building into distinct vertical bays. Variations in roofline, materials and color shall also be used to break up the massing.
  - (3) All visible sides of a building shall have an articulated base and cap. The base shall align with either the kickplate or sill level of the first story. The cap shall be at the top of the building wall and may take the form of a cornice, or some other horizontal expression distinguished through design materials or colors.
- (c) Roof Forms
- (1) Flat or sloped roofs with parapet walls shall be used on commercial buildings.
  - (2) Rooftop equipment, including HVAC units, shall be screened from view.
- (d) Façade Characteristics
- (1) Building facades shall emphasize clearly articulated main entrances using awnings, canopies, columns, pilasters and recessed entrances including side on corner lots.
  - (2) Window and door openings shall have a vertical orientation and align vertically between floors.
  - (3) Ground floors shall be 65-86% glazed. Upper floors shall be 35-65% glazed
  - (4) Canopies shall be appropriate to a building's architectural style and shall not conceal significant architectural features.
- (e) Exterior Wall Materials
- (1) The primary material (minimum of 90%) shall be brick, stone, stucco, block, wood siding or synthetic wood (such as Hardiplank).
  - (2) Sheet metal siding, plywood, and EIFS (Exterior Insulation Finishing System), synthetic stucco, and burglar bars shall not be used.
- (f) Redevelopment Principles for Single-Family Dwellings
- (1) Homes shall be no more than two stories in height.
  - (2) Houses should be designed to incorporate characteristics in pre-1930's residential construction. Colors common during the time should be utilized.
  - (3) The primary material (minimum of 90%) shall be brick, stone, stucco, block, wood siding or synthetic wood (such as Hardiplank).
  - (4) Sheet metal siding, plywood, and EIFS (Exterior Insulation Finishing System), synthetic stucco, and burglar bars shall not be used.
  - (5) Where original doors and/or windows were blocked or covered, those openings should be restored to their original appearance.
  - (6) The use of aluminum window frames is prohibited."

**Section 2.** Any person, as defined in Section 1.07 (27), Texas Penal Code, who shall violate any provision of the ordinance, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed TWO HUNDRED DOLLARS (\$200.00).

**Section 3.** Each and every provision, paragraph, sentence and clause of this Ordinance has been separately considered and passed by the City Council of the City of La Porte, Texas, and each said provision would have been separately passed without any other provision, and if any provision hereof shall be ineffective, invalid or unconstitutional, for any cause, it shall not impair or affect the remaining portion, or any part thereof, but the valid portion shall be in force just as if it had been passed alone.

**Section 4.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict only.

**Section 5.** The City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council is posted at a place convenient to the public at the City Hall of the city for the time required by law preceding this meeting, as required by Chapter 551, Tx. Gov't Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

**Section 6.** This Ordinance shall be effective fourteen (14) days after its passage and approval. The City Secretary shall give notice of the passage of this ordinance by causing the caption hereof to be published in the official newspaper of the City of La Porte at least once within ten (10) days after the passage of this ordinance.

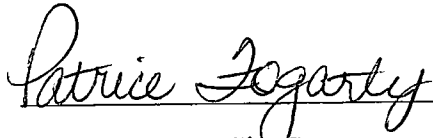
PASSED AND APPROVED this the 10<sup>th</sup> day of NOVEMBER, 2014.

CITY OF LA PORTE, TEXAS

By: \_\_\_\_\_

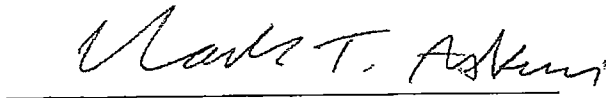
  
Louis R. Rigby, Mayor

ATTEST:

A handwritten signature in cursive script, reading "Patrice Fogarty", is written over a horizontal line.

Patrice Fogarty, City Secretary

APPROVED:

A handwritten signature in cursive script, reading "Clark T. Askins", is written over a horizontal line.

Clark T. Askins, Assist. City Attorney