

ORDINANCE NO. 2008-F

AN ORDINANCE OF THE CITY OF COCKRELL HILL, TEXAS REPEALING CHAPTER 153 OF THE CITY'S CODE OF ORDINANCES ENTITLED "ZONING" IN ITS ENTIRETY; ESTABLISHING A NEW CHAPTER 153 OF THE CITY'S CODE OF ORDINANCES ENTITLED "ZONING AND DEVELOPMENT CODE" RELATIVE TO THE REGULATION OF LAND USES AND ZONING; PROVIDING A PURPOSE; ESTABLISHING DEFINITIONS; PROVIDING FOR INTERPRETATION, PURPOSE AND CONFLICT; ESTABLISHING DISTRICTS; ADOPTING A ZONING MAP; ESTABLISHING BOUNDARIES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR USES BY SPECIAL PERMIT; ESTABLISHING DISTRICT REGULATIONS; PROVIDING FOR SPECIAL EXCEPTIONS; ESTABLISHING GENERAL REGULATIONS; ESTABLISHING PARKING REQUIREMENTS; PROVIDING FOR ACCESSORY USES AND BUILDINGS; REGULATING NONCONFORMING USES; ESTABLISHING A BOARD OF ADJUSTMENTS; PROVIDING FOR BOARD OF ADJUSTMENTS PROCEDURE AND AUTHORITY; ADOPTING A PENALTY; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cockrell Hill, Texas ("City") has authority under Chapter 211 of the Local Government Code to regulate land uses; and

WHEREAS, the City Council of the City of Cockrell Hill, Texas, has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens of the City that the Code of Ordinances provisions relative to the regulation of land uses, be established as hereinafter stated

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COCKRELL HILL, TEXAS:

SECTION 1. All of the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. That Chapter 153, entitled "Zoning," is hereby repealed in its entirety and a new Chapter 153 "Zoning and Development Code" shall be adopted to read as follows:

'CHAPTER 153: ZONING AND DEVELOPMENT CODE

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GENERAL PROVISIONS**§ 153.001 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, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district and its peculiar suitability for the particular uses and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the City.

§ 153.002 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future. The singular number includes the plural and the plural the singular. "Building" includes "structure." "Shall" and "must" are mandatory.

ACCESSORY BUILDING. A separate building devoted to an accessory use.

ACCESSORY USE. A use subordinate to and incidental to the primary use of the main building or to the primary use of the premises.

ALLEY. Land dedicated to public use and devoted to secondary access to lots.

APARTMENT HOTEL. A multiple dwelling under resident supervision which maintains an inner lobby through which all tenants must pass to gain access to the apartments and which may furnish services ordinarily furnished by hotels, such as: drug store, barber shop, cosmetologist's shop, cigar stand or news stand, when such uses are located entirely within a building with no entrance from the street nor visible from any sidewalk and having no sign or display visible from the outside of the building indicating the existence of such use.

BOARD. The Board of Adjustment.

BUILD. To erect, convert, enlarge, reconstruct or structurally alter a building or structure.

BUILDABLE WIDTH. The lot width remaining to be built upon after providing for side yards.

BUILDING. Any structure built for use of persons or animals.

DISTRICT. A part of the City wherein regulations of this Chapter are uniform.

DWELLING. Each structure or dwelling unit shall contain at least 150 square feet of habitable floor space for the first occupant and at least 100 square feet for each additional occupant. In each structure or dwelling unit of two or more rooms, each room occupied for sleeping purposes shall contain at least 36 square feet of floor space for one occupant and shall contain an additional 27 square feet of floor space for each additional occupant. Children under 12 months of age shall not be considered occupants and children under 12 years of age shall be considered as one-half of one occupant. A dwelling unit that is occupied by more than four individuals who are unrelated, by blood, marriage or adoption or the number of persons, whether related or unrelated shall not exceed the following occupancy limits: three persons for an efficiency or one bedroom; five persons for two bedroom; seven persons for a three bedroom; nine persons for a four bedroom. For each two additional persons, an additional bedroom shall be required.

FAMILY. One or more persons related by blood, adoption, marriage or not more than three unrelated persons living, sleeping or cooking together in one living unit.

FLOOR AREA. The square feet of floor space within the outside line of walls and including the total of space on all floors of a building.

FRONT YARD. The area from one side lot line to the other side lot line and between the main building and the street on which the lot fronts. On corner lots (lots abutting on two or more streets at their intersections), the front yard shall face the shortest street dimension of the lot except that, if the lot is square or almost square, for example, has dimensions in a ratio of from 3.2 to 3.3, then the front yard may face either street.

GRADE. The average level of the finished surface of the ground for buildings more than five feet from a street line. For buildings closer than five feet to a street, the grade is the sidewalk elevation at the center of the building. If there is no more than one street, an average sidewalk elevation is to be used. If there is not sidewalk, the City Engineer shall establish the sidewalk grade.

HALF-STORY. The space under a sloping roof, all of which space must be at least three feet high, but no more than 60% of which floor area may be finished off for use.

HEIGHT OF A BUILDING. The vertical distance from the grade to:

- (1) The highest point on a flat roof;
- (2) The deck line of a mansard roof; or
- (3) The mean height between eaves and ridge for gable, hip and gambrel roofs.

HOTEL. A dwelling not consisting of living units and occupied by more than 20 persons.

LIVING UNIT. The room or rooms occupied by a family. Each living unit must include a kitchen. No single-family dwellings shall contain more than one Living Unit. No two-family dwelling shall contain more than two living units.

LODGING HOUSE. A dwelling consisting of not more than 20 persons not related by blood, marriage or adoption. This term includes rooming house, boarding house, tourist home and nursing home.

LOT WIDTH. The width of a lot at the front yard line.

LOT. A parcel of land adequate for occupancy by a use herein permitted, providing the yards, area and off-street parking herein required and fronting directly upon a street.

MAIN BUILDING, PRINCIPAL BUILDING or PRINCIPAL STRUCTURE. The building occupied by the primary use.

MOTEL. An inn or group of cabins designed for occupancy by paying guests.

MULTIPLE DWELLING. A building that contains more than two living units.

OFFICE BUILDING. A building designed for or used as the offices of professional, commercial, industrial, religious, public or semi-public persons or organizations, provided that no goods, wares or merchandise shall be prepared or sold on the premises.

PARKING SPACE. An area on a lot (or group of adjoining lots that consist of a common shopping center) sufficient in size to park or store one automobile (not less than 9 feet wide and 18 feet long) connected to a public street or alley by a driveway which shall be no less than 10 feet wide, or in the case of a fire lane, no less than 20 feet wide, and so arranged as to permit ingress and egress of the automobile at all times without moving any other automobile parked adjacent to or across from the parking space.

PREMISES. Land together with any buildings or structures occupying it.

PRIVATE GARAGE. An accessory building housing vehicles owned and used by occupants of the main building. Where vehicles used by the persons other than occupants are housed, the building is a storage garage.

PUBLIC BUILDING. Any building owned or used exclusively by the City, county, state or federal governments.

REAR YARD. The area from one side lot line to the other side lot line and from the main building to the rear lot line. The rear yard is always on the opposite end of the lot from the front yard.

SEPARATE TRACT. A parcel of land or a group of contiguous parcels of land under one ownership on the effective date of this Chapter.

SIDE YARD. The area from the front yard line to the rear yard line and from the main building to a side lot line.

SIGN. Any outdoor advertising that is a structure or that is attached to or painted on a building or that is leaned against a structure or displayed on a premises.

SINGLE-FAMILY DWELLING. A building that contains only one living unit.

STORY. The part of a building from one floor to the next floor above or to the ceiling if there is no floor above.

STREET. Property dedicated for and accepted by the City for primary public access to lots.

STRUCTURAL ALTERATION. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any complete rebuilding of the roof or the exterior walls.

STRUCTURE. Anything built that requires a permanent location.

TOWNHOUSE or ROWHOUSE. A one- or two-story structure containing three or more attached dwelling units, each having a ground floor, and the dwelling units attached side to side by a common wall.

TRAILER. A vehicle equipped for use as a dwelling and designed to be hauled along a highway.

TWO-FAMILY DWELLING. A building that contains only two living units.

YARD WIDTH OR DEPTH. The shortest horizontal distance from a lot line to a main building.

YARD. An open space on the same lot as a building, except as provided herein, it is unoccupied and unobstructed by a structure.

§ 153.003 INTERPRETATION, PURPOSE, AND CONFLICT.

In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this Chapter to interfere with or abrogate or annul any easement, covenants or other agreements between parties; provided, however, that where this Chapter imposes a greater restriction upon the use of buildings or premises, upon height of building or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easement, covenants or agreements, the provision of this Chapter shall govern.

§ 153.004 DISTRICTS ARE ESTABLISHED.

(A) Zoning districts and regulations as herein set forth are established. The City is divided into two types of districts:

- (1) R Districts: Residential
- (2) C Districts: Commercial

(B) The two types of districts are further divided into the following districts:

- (1) Residential
 - (a) R-S: Single-Family District.
 - (b) R-M: Multiple-Family District.
- (2) Commercial District.
 - (a) C
 - (b) C-A

(C) The boundaries of the districts are shown on the “District Map” attached to Ordinance 1968-F, passed 9-10-68, as revised according to Ordinances 2004-K, passed December 14, 2004, and 2006-H, passed September 12, 2006 on file in the City Secretary’s office, and made a part of this Chapter.

(D) Whenever a street or alley is vacated, adjacent districts shall extend to the center line of the vacated street or alley.

(E) Land annexed to City: All new territory hereinafter annexed to the City shall be classified as “R-S” District, until rezoned by the following procedure: Any ordinance hereafter annexing new territory to the City shall include, as part thereof, a map or plat, showing the zoning classifications for the area being annexed as approved by the City Council. When new territory has been so annexed to the City, the City Council shall, within 30 days, hold a public zoning hearing on the proposed zoning of the area. Notice of the hearing and procedure for adoption of the ordinance zoning the area shall be substantially in conformity with this Chapter and state statutes regulating the rezoning of property.

(F) The owner, lessee or any other person, firm or corporation owning, controlling, constructing, supervising or directing the construction of any building or structure which may be in the process of construction and which is incomplete at the time the land upon which it is situated is annexed to the City, before proceeding further with construction, alteration or completion thereof, shall apply to the Building Inspector for a permit authorizing further work and shall attach to his or her application plans and specifications for the construction of the buildings or structures. The Building Inspector shall grant the permit if the application shows that the building will comply with the Building Code and other ordinances, rules and regulations of the City of the City, except zoning, or the construction of the building or structure would not be to the detriment or against the general welfare of the citizens of the City. Construction work shall be suspended until the necessary permit has been issued.

§ 153.005 EFFECT OF CHAPTER.

(A) Use of premises and all buildings in the City shall be in accordance with the minimum standards hereinafter established.

(B) Every building shall be on a lot. Except as provided in the regulations of the “R-M” District, there shall not be more than one principal building on a lot, and all residential buildings shall face a public street.

(C) Yards, parking space or lot area required for one building cannot be used for another building, nor can the size of a lot be reduced below the requirements of the Chapter.

§ 153.006 ZONING MAP

See Exhibit "A"

§ 153.007 BOUNDARIES OF DISTRICTS.

Where uncertainty exists with respect to the boundaries of the various Districts as shown on the map accompanying Ordinance 1968-F as amended by Ordinance 2004-K and made a part of this Chapter, the following rules apply:

(A) The District boundaries are street, alley and property lines unless otherwise shown and where the Districts designated on the map accompanying Ordinance 1968-F as amended by Ordinance 2004-K and Ordinance 2006-H which was previously designated the Jefferson Boulevard Overlay District, and made a part of this Chapter are bounded approximately by street, alley or property line, the street, alley or property line shall be construed to be the boundary of the District.

(B) Where the District boundaries are otherwise indicated, and where the property has been or may be divided into blocks and lots, the District boundaries shall be construed to be property lines and where the Districts designated on the map accompanying Ordinance 1968-F, as amended and made a part of this Chapter are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the District, unless the boundaries are otherwise indicated on the map.

(C) For property that has not been legally subdivided, the District boundary lines on the map accompanying Ordinance 1968-F and made a part of this Chapter shall be determined by use of the scale appearing on the map.

(D) In the 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 less restricted District.

§153.008 ENFORCEMENT.

The provisions of this Chapter shall be administrated and enforced by the Building Official of the City. All applications for building permits shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the building to be erected, the use of the property and such other information as may be necessary to provide for the enforcement of these regulations. A careful record of the applications and plats shall be kept in the office of the Building Inspector and City Administration.

SPECIAL PERMITS

§ 153.020 USES PERMITTED BY SPECIAL PERMIT.

(A) Uses listed in division (B) of this section may locate in certain districts under certain conditions by a special permit granted by the City Council. After receiving an application for the permit, the City Council shall hold a public hearing to determine the effect of the proposed use upon the neighborhood, character, traffic, public utilities, public health, public safety and general welfare. The public hearing shall be upon notice and in accordance with state statues and procedures set forth in this Chapter regulating the rezoning of property.

(B) Uses for which special permits may be secured, conditions that must be observed and districts in which the use may be allowed are as follows:

<i>USE</i>	<i>SPECIFIC CONDITIONS</i>	<i>DISTRICT</i>
Nursery, pre-kindergarten, Kindergarten, play, special and Other private schools	As prescribed by the City Council	R-S, R-M, C
Greenhouses and nurseries not primarily engaged in retail trade	As prescribed by the City Council	R-S, R-M, C
Convalescent or rest homes	As prescribed by the City Council	R-S, R-M, C
Two-family dwellings	Will not adversely affect or alter character or existing single-family uses in immediate area. The lots comprising not less than 30% of the two-family dwellings are proposed and of the block face opposite thereto are vacant and as otherwise prescribed by the City Council	Any except "R-S"
Charitable, civic, non-profit and/or social organizations which is not a business	As prescribed by the City Council	Any except "R-S"
Commercial parking lots	As prescribed by the City Council	C and C-A Districts
As revised by Ord 2004-K		

(C) Upon the filing of an application for a special permit, on a lot/tract of property, the owner/developer/applicant shall be required to place an informational sign on the lot/tract of property within five days after the date that the application was filed.

(D) If the City Council fails to approve the proposed special permit, a new application for the proposed special permit shall not again be considered until after the expiration of one

year from the date the proposed special permit was rejected; provided, however, that the application for special permit may be reconsidered prior to the expiration of one year if:

- (1) It be shown that a substantial change in conditions has taken place in the vicinity of the property which is the subject of the special permit; or
- (2) The City Council rejected the special permit without prejudice to the refilling of same.

§ 153.030 PURPOSE.

Land or premises in each of the following classified districts in the City shall be used for the following purposes only. Any other use of land or premises in the district or districts shall be unlawful and in violation of this Chapter. All uses of land or premises shall comply with the conditions, limitations and requirements as to yards, open space, lot coverage, spacing, height, off-street parking and as may otherwise be set forth in this Chapter.

§153.031 SINGLE-FAMILY DISTRICT REGULATIONS R-S.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Single-family dwellings. Residential use of temporary structures, trailers and/or mobile homes is prohibited. The term mobile homes, as used herein does not include HUD-Code Manufactured homes, but instead specifically refers to mobile homes built before July 14, 1976.
- (2) Public facilities including parks, libraries, elementary and high schools and public buildings.
- (3) Private Schools with a curriculum similar to public elementary and secondary schools.
- (4) Religious Institutions.
- (5) Golf courses, but not miniature courses or driving tees.
- (6) Public Utilities; however, wireless antennae must receive a specific use permit to be located within this district.
- (7) Fire Station, police station, artesian well, pumping station, lake, boat docks, boathouse, water supply reservoir, filter bed, water tank, tower or stand pipe.

(8) Railroad right-a-way, railroad tracks, bridges, water tanks, signals and other railroad appurtenances, but not including railroad yards, classification tracks, storage tracks, passenger station, freight station, coaling facilities, fuel oil tanks or roadhouses.

(9) Electrical facilities and electrical energy facilities, transformers, relay and substations, poles, wires and electrical transmission and/or distribution appurtenances, but not including office building or storage facilities.

(10) Transitional uses as may be authorized by the Board of Adjustment via a special exception.

(11) Two-family dwellings, provided that not less than one-half of the block frontage of that side of the block in which the two-family dwelling is proposed or of the block frontage directly opposite thereto is, at the time of request for a building permit, comprised of lots used for two-family, multiple-family, commercial and/or institutional purposes.

(12) Two-family dwellings by special permit as provided in § 153.020.

(13) Greenhouses and nurseries not primarily engaged in retail trade.

(14) Home occupations.

(B) *Height regulations.* No building shall exceed 35 feet or 2 ½ stories in height.

(C) *Area regulations.*

(1) Size of yards.

(a) *Front yard.* There shall be a front yard having a depth of not less than 25 feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets. The maximum allowable driveway width shall not exceed (22) feet.

(b) *Side yard and rear yard.* No structure shall be closer to a side or rear lot line than five feet or a distance equal to 10% of the frontage of the lot, whichever distance shall be greater; provided, however, that improvements and additions to existing lawful structures shall not be closer to a side or rear lot line than the nearest part of the existing structure, provided further that no such improvement or addition to any existing lawful structure shall be less than six feet from any existing structure on any adjoining lot or property. A detached accessory building may be located within three feet of the rear lot line, provided that the rear lot line is also a right-a-way line

for a public alley or a public utility easement and provided the public alley or public utility easement has a width of not less than ten feet.

(c) *Lot coverage.* No more than 45% of the total area of a lot shall be covered by structures. Structures include all buildings, principal and accessory, sheds and shelters.

(2) *Size of lot.*

(a) No lot shall be used for residential purposes and no building for residential use shall be constructed or moved upon any lot having an area of less than 7,000 square feet, having a width of less than 60 feet measured at a distance of 25 feet behind the front lot line or having an average depth of less than 100 feet. Where the parking area for the building and the property is located within the front setback area, the minimum parking area shall be 20' wide by 40' deep.

(b) Where a lot having less area, width and/or depth than herein required existed in separate ownership upon the effective date of this Chapter, the above regulations shall not prohibit the erection of one single-family dwelling thereon except that the property must comply with the parking requirement set forth in (2)(a) above.

(D) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in § 153.048.

(E) *Occupancy of single-family dwellings.* No single-family dwelling, as defined in §153.002, shall be occupied by more than one family, as defined in this Chapter. For purposes of this section, occupancy shall be defined as living, sleeping or cooking within a dwelling.

(F) *Occupancy of two-family dwellings.* No two-family dwelling, as defined in §153.002, shall be occupied by more than two families. For the purposes of this section, occupancy shall be defined as living, sleeping or cooking within a dwelling. Family shall be defined as set forth herein.

(G) *Home Occupations.* A Home Occupation is not allowed in a residential area unless the Home Occupation adheres to the following:

(1) The business must be operated by a person residing in the home. Only a member of the occupant's family can be employed in the home business.

Zoning and Development Code

- (2) Signs must not be used to advertise the property or business address. Unauthorized advertisements include, but are not limited to, newspaper, radio, television, vehicular signs and telephone directories.
- (3) The home business cannot create obnoxious conditions such as noise, odor, increased traffic, light or smoke, nor shall it permit parking, stopping to load or unload anything and stopping to pick up or drop off passengers.
- (4) Not more than one vehicle for the business may be parked at the premises at any one time.
- (5) No outside storage of any nature connected with the home business is permitted, except for one vehicle used in connection with the home business. The vehicle may be no longer than a passenger van or pickup truck.
- (6) The business must be conducted indoors.
- (7) No commodity may be sold on the premises
- (8) No equipment or materials not usually found in the home.

§ 153.032 MULTIPLE-FAMILY DISTRICT REGULATIONS R-M.

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

- (1) Any use permitted in the “R-S” District regulations. Residential use of temporary structures and trailers is prohibited.
- (2) Two-family dwellings or duplexes.
- (3) Occupations and activities carried on by resident members of families where:
 - (a) There is no sign other than one sign (non-illuminated) not larger than four square feet in area;
 - (b) No products but those made on the premises are sold on the premises;
 - (c) Mechanical equipment used is that normally used in a dwelling; and
 - (d) Only one person, other than a member of a family, is employed.

Zoning and Development Code

- (4) Lodging houses.
- (5) Hospital or clinic other than of a veterinarian.
- (6) Religious, educational and philanthropic institutions, but not animal care.
- (7) Lodges, fraternities and sororities where the chief activity is not a business.
- (8) Apartment hotels.
- (9) Offices and office buildings. The total office space in a single structure shall not exceed a floor area of 5,000 square feet.
- (10) Personal service shops such as beauty shops and barbershops, but not beauty and/or barber schools or colleges.
- (11) Studios of artists and photographers.
- (12) Nursery, pre-kindergarten, kindergarten, play, special and other private schools containing space for no more than 20 children.
- (13) Convalescent or rest homes.
- (14) Rowhouses or Townhouse.
- (15) Multiple-family dwellings.

(B) *Height regulations.* No building shall exceed 35 feet or two stories in height.

(C) *Area regulations.*

- (1) *Size of yards.*
 - (a) *Front yard.* There shall be a front yard having a depth of not less than 25 feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets. The maximum allowable driveway width shall not exceed twenty (22) feet.
 - (b) *Side and rear yard.* No structure shall be closer to a side or rear lot line than five feet or a distance equal to 10% of the front footage of the lot, whichever distance shall be greater; provided, however, that improvements and additions to

existing lawful structures shall not be closer to a side or rear lot line than the nearest part of the existing structure, provided further that no such improvement or addition to any existing lawful structure shall be less than six feet from an existing structure on any adjoining lot or property. A detached accessory building may be located within three feet of the rear lot line, provided that the rear lot line is also a right-of-way line for a public alley or a public utility easement and provided the public alley or public utility easement has a width of not less than ten feet.

- (c) *Lot coverage.* Except for the required yards, there is no requirement if there is no residential use on the Premises. When there is a residential use upon the Premises, no more than 60% of the total area of a lot shall be covered by structures. Structures shall include all buildings, principal and accessory, sheds and shelters, but not include roofed or covered parking areas where there are no side walls to the structures.

(2) *Size of lot.*

- (a) For all residential uses, the minimum dimensions for a lot as set forth in the “R-S” District regulations shall apply. No single-family, two-family or three-family dwelling shall be constructed or occupied on any lot having an area of less than 7,000 square feet. Any lot upon which there is multiple-family dwelling (a structure containing three or more rowhouses or townhouse dwelling units shall be considered a multiple-family dwelling) containing four or more dwelling units shall have an area of not less than 7,000 square feet plus 1,000 square feet for each dwelling unit in excess of three dwelling units. For all non-residential uses, the minimum lot size shall be 7,500 square feet.
- (b) Where a lot having less area, width and/or depth herein required for a single-family dwelling or two-family dwelling existed in separate ownership upon the effective date of this Chapter, the above regulations shall not prohibit the erection of a single-family dwelling or a permitted nonresidential use thereon.

(3) *Spacing and location of structures.* Several structures may be located upon a lot, provided that:

- (a) Any structure containing a residential use not facing a public street shall face upon a courtyard having a minimum width of

45 feet between structures or any appurtenances thereto, which courtyard shall open upon public street; and

- (b) No two exterior walls of structures, either of which contain a residential use, that are parallel or within 45 degrees of being parallel, either of which contain windows, shall be closer together than a horizontal distance equal to one-half the combined height of the two structures, except that no structure need be separate by a distance greater than 45 feet. All other structures shall be separated by a minimum horizontal distance of 8 feet.

(4) *Recreational open space.* Not less than 200 square feet of recreational open space per dwelling unit in a multiple-family, rowhouse or townhouse development shall be provided within the area of the project or development. The recreational open space shall be located or arranged so as to function as a recreational area or areas and be beneficial to all of the dwelling units in the project development. Required open space separating structures shall not be considered to be a part of the required recreational open space.

(5) *Private open space.* Each dwelling unit in a rowhouse or townhouse project shall be provided with a private yard or open space of not less than 150 square feet in area, which space shall be immediately accessible and functional to the dwelling unit that it serves. The open space may be at the front, rear or side of a dwelling unit and shall be in addition to the required spacing between structures and not lines.

(6) *Parking regulations.* Off-street parking shall be provided in accordance with the requirements for specific uses set forth in § 153.048.

(7) *Occupancy of multiple dwellings.* No living unit within a multiple dwelling, as defined in §153.002, shall be occupied by more than one family. For purposes of this section, occupancy shall be defined as living, sleeping or cooking within a dwelling.

§ 153.032 (B) TRANSITIONAL USES

(A) Within an “R-S” District upon any lot, a side lot line of which abuts a “C” District, the Board of Adjustment may permit, by special exception, a two-family dwelling, a multiple-family dwelling or row houses or townhouses. The height and area regulations a set forth in the “R-M” District regulations shall apply to such transitional uses.

(B) No transitional area shall extend along the street frontage a distance greater than the width of one lot, and in no event shall it extend a distance greater than 100 feet from the district boundary of the less restricted district, except that if the lot upon which the transitional use is to be located has a width greater than 100 feet but less than 150 feet, the transitional use may be extended throughout the entire width of the lot.

§ 153.032 (C) SPECIAL EXCEPTIONS.

(A) *Special exceptions for minimum front yard requirements.*

(1) The Board of Adjustment (hereinafter called the “Board”) may grant a special exception to the minimum front yard requirements in this section for a carport for a single family or duplex use when, in the opinion of the Board:

- (a) There is not adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and
- (b) The carport will not have a detrimental impact on surrounding properties and the materials and colors shall be consistent with the main building structure.

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

(B) *Special exceptions for minimum side yard requirements.*

(1) The Board may grant a special exception to the minimum side yard requirements in this section for a carport for a single family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties.

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

- (a) Whether the requested special exception is compatible with the character of the neighborhood;
- (b) Whether the value of surrounding properties will be adversely affected;
- (c) The suitability of the size and location of the carport; and
- (d) The materials to be used in construction of the carport.

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

§ 153.033 COMMERCIAL DISTRICT “C” REGULATIONS

(A) *Use regulations.* A building or premises shall be used only for the following purposes:

(1) Any use permitted in the "R-M" District. Residential use of trailers and temporary structures is prohibited.

(2) Sales of all goods and products at retail. However, there shall be no outdoor display or storage of merchandise unless it is enclosed in a permanently constructed screened structure.

(3) Shops for repair and servicing of goods including bicycles, typewriters, computers, electrical, radio and television appliances, keys and similar articles.

(4) Automobile, motorcycle and truck repair conducted only in a building.

(5) Dressmaking, millinery, tailoring, shoe repair, laundry, dry cleaning and similar trades.

(6) Garages, including storage garages.

(7) Banks.

(8) Public cold storage lockers.

(9) Animal hospitals and clinics where there are no open kennels.

(10) Print, furnace, heating, air-conditioning, sheet metal, plumbing, tire and car washing establishments and similar shops.

(11) Private or for-profit schools.

(12) Undertaking establishments.

(13) Bowling alleys and other indoor commercial recreation.

(14) Office and office buildings (no area limitations).

(15) Motels and hotels.

(16) Theaters, but not drive-in.

(17) Soft drink bottling.

(18) Jewelry manufacturing.

(19) Testing laboratories.

(20) Bakeries, wholesale.

(21) Publishing.

(B) *Height regulations.* The height regulations are the same as those in the “R-M” District regulations.

(C) *Area regulations.* The area regulations in the “R-M” District regulations shall apply, except that:

(1) No rear yard is required for a nonresidential use that is on a lot that does not back upon an “R” District; and

(2) No side yards are required on adjoining lots used for a nonresidential purposes, provided the owners agree to a “zero-lot” line. Otherwise there shall be a four (4) foot side yard. Along a side lot line adjoining an “R” District a side yard is provided as required in the adjoining “R” District.

(D) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for specific uses as set forth in § 153.048.

(E) *Sign Regulations.* Signs both permanent and temporary, used in connection with and on the same lot as the establishment to which they refer shall be governed by the Cockrell Hill Sign Regulations, as set forth in Chapter 152 of this Code.

§ 153.033(B) COMMERCIAL DISTRICT “C-~~A~~” REGULATIONS

(A) *Use regulations.* For properties that have frontage on Jefferson Boulevard or are within two hundred (200) feet of the Jefferson Boulevard Right-of-Way, and that are otherwise zoned “C” Commercial, such Premises shall be further restricted and may be used only for the following purposes:

(1) Sales of all goods and products at retail and complimentary uses including services for repair of such items, and other office type uses. However, there shall be no outdoor display or storage of merchandise unless it is enclosed in a permanently constructed screened structure. Categories shall be limited to:

(a) Check cashing services.

(b) Banks, savings and loans, credit unions, financial companies.

(c) Artist, Photography or Artisans studios, dealers and galleries.

(d) Dance, drama, martial arts and Music schools.

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- (e) Laundry or dry cleaning pick-up store.
- (f) Financial Services.
- (g) Photocopy, duplicating and copy shop.
- (h) Travel Agency.
- (i) Auto Supply-new parts only. No repair or outdoor storage.
- (j) Video Sales and Rentals.
- (k) Coffee Shop.
- (l) Candy or Confectionary Store.
- (m) Consignment Shop (retail items only, auto parts stores not included).
- (n) Convenience Store (with or without fuel sales).
- (o) Florist or plant nursery (inside sales only).
- (p) Food, Grocery or General Merchandise Stores including:
 - (i) Clothing and Shoes.
 - (ii) Sporting Goods.
 - (iii) Handicrafts.
 - (iv) Furniture and Home Furnishings.
 - (v) Bookstores and Newsstands.
 - (vi) Hardware Store (outside storage must be screened as provided herein and may not exceed an area exceeding 15% of the area of the inside store).
 - (vii) Liquor or Package Store.
 - (viii) Computer and electronic sales.
 - (ix) Pet shop and Pet Supplies.
 - (x) Pharmacy or Drug Store

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- (q) Medical Offices.
- (r) Professional Offices.
- (s) Antique Shop.
- (t) Delivery Services.
- (u) Catering, Party or Event Supplies.
- (v) Health & Fitness Centers.
- (w) Restaurant, Cafeteria, Deli and Prepared Food Sales including drive through and drive-in.
- (x) Indoor Amusement & Recreation Centers.
- (y) Lodges and Fraternal Organizations.

(2) Shops for repair and servicing of goods including bicycles, typewriters, computers, electrical, radio and television appliances, keys, millinery, tailoring, shoe repair and similar articles.

(3) Uses Permitted By Special Use Permit in the “C-A” District:

- (a) Hotel or Motel.
- (b) Attended Automobile Washing (no-self service).
- (c) Business or Trade Schools.
- (d) Jewelry Manufacturing.
- (e) Tire Sales (new, no outside storage or installation).
- (f) Self-Service Washateria or Laundry.
- (g) Non-attached signs that do not comply with the Sign Ordinance §152 as amended.

(B) *Height regulations.* Building heights shall not exceed 35 feet high or 2 ½ stories.

(C) *Area regulations.* The area regulations in the “C” District regulations shall apply, except that:

(1) No side yards shall be required if the uses on the adjoining lots are for nonresidential purposes. Otherwise there shall be a five (5) foot side yard and five (5) foot rear yard. Along a side lot line adjoining an “R” District a side yard is provided as required in the adjoining “R” District.

(D) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for such specific uses as set forth in § 153.048.

§153.036 PLANNED DEVELOPMENT ZONING DISTRICT

(A) *Permitted Uses.* Any use shall be permitted if such use is specified in the Ordinance granting a Planned Development (PD) District. The size, location, appearance and method of operation may be specified to the extent necessary to ensure compliance with the purpose of this ordinance.

(B) *Development Requirements.*

(1) Development Requirements for each separate PD District shall be set forth in the Ordinance granting the PD District and may include, but not be limited to, restrictions relating to: use density, lot area, lot width, lot depth, yard depths and widths, height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, and other requirements as the Council may deem appropriate.

(2) The Ordinance granting a PD District shall include a statement as to the purpose and intent of the PD granted therein.

(3) An application for a PD District shall include a complete list of development conditions and uses which may be incorporated into the ordinance, if approved, as set forth in subsection (a). A development plan may be included with the application. If no development plan is submitted and the City Council finds one necessary, the matter shall be tabled until a development plan is submitted by the applicant. Such development plan shall not be approved or recommended for approval until it has been reviewed and a report submitted as set out in subsection (d).

(C) *Development Program and Plans.* The Council may require development in conformance with a development plan as further specified herein.

(1) The Council may require submission and approval of development plans showing the nature and character of the planned development, which may include location of uses, buffering and screening devices, traffic circulation, schematic area drainage map, curb cuts, utilities, refuse storage and collection, and other features necessary to depict the development. These development plans may consist of a Land Use Plan, a Concept Plan, and/or a Detail Plan. When a development plan is required, the approval of a Land Use Plan or a Concept Plan shall be deemed as incomplete for development and no development shall

begin until a Detail Plan is approved for that portion for which a building permit is sought. Land Use Plans, Concept Plans, and Detail Plans shall be as set forth herein. These provisions shall apply only when development plans are required.

(2) Land Use, Concept, and Detail Plans shall be accurately drawn to an appropriate legible scale and shall include title, north arrow, scale, date drawn, and necessary references to accurately locate the property. Copies in sufficient quantity and at an appropriate size for review purposes shall be submitted by the owner, applicant, or their representative.

(3) A Land Use Plan shall be accurately drawn indicating boundary lines of the PD area covered, proposed use areas, topography, wooded areas, streams, existing roadways, existing utility lines and easements, general location of future roadways and utilities shown on the current approved thoroughfare and utility plans, general location of future parks and open space, schools, and other public facilities.

The Land Use Plan, or development conditions, shall indicate the approximate size of each separate use area, proposed uses, approximate density of residential uses, approximate gross floor area of nonresidential uses, parking ratios, general heights and other information required to describe the proposed development. Photographs, sketches, or drawings may accompany a Land Use Plan to illustrate the type and nature of the proposed development. When a Land Use Plan is approved, a Concept Plan shall be approved on all or a portion of the PD area prior to or in conjunction with the approval of a Detail Plan.

(4) A Concept Plan may be required for any PD District when determined necessary by the Council. A Concept Plan includes all of the area of a PD District, except that a Concept Plan may cover only a part of the PD District if a Land Use Plan has been approved or is being approved in connection with the Concept Plan. All of the features required in a Land Use Plan shall be included in a Concept Plan and in addition thereto the Concept Plan shall indicate all proposed streets, alleys, drives, buildings, parking areas, landscaped areas, screening, uses of buildings and land, heights, topography, and other features of the proposed development. A Concept Plan shall be construed to be an illustration of the development concepts only and not an exact representation of the specific development proposed. No building permits shall be issued based on an approved Concept Plan. Prior to issuance of any building permit, a Detail Plan shall be approved on that portion of the area of the Concept Plan for which a building permit is sought. A Concept Plan shall be in conformance with a Land Use Plan if one has been approved for the PD District.

(5) When a development plan is required, a Detail Plan shall be approved prior to development, and development shall be in accordance therewith. A Detail Plan shall show the features which the Council deems necessary to regulate. Features which the Council deems are not required to be regulated may be shown for informational purposes but shall be presented in a manner to distinguish them from those being regulated.

(D) Procedures.

(1) The procedures for granting, modifying, amending, or revising a PD District or any of the development conditions, development plans, or permitted uses shall be the same as for any zoning district as set forth in Chapter 153, except as set forth herein. The application shall include: a description of the property, a drawing showing the various use areas within the proposed PD area if more than one use area is expected; proposed regulations, a list of any requested variances from standard requirements of the Zoning Ordinance, and any proposed development plans.

(2) An application for a PD District may only be submitted for the following zoning districts:

- (a) Residential; and
- (b) Multi-family RM.

§ 153.037 COMMERCIAL DISTRICT “C” and “C-A” DEVELOPMENT AND DESIGN GUIDELINES

(A) In conjunction with the Future Land Use Plan and the City Comprehensive Plan, all commercial properties zoned “C” or “C-A” that are built new, or renovated or require permits pursuant an ordinance or regulation that would permit a business on the Premise to sell any of alcohol, beer or wine for off-premises consumption shall be required to comply in full with the Development and Design Standards pursuant to this Section 153.037.

(B) **Site Plan Review** All buildings shall be subject to design review as part of the Site Plan Review Process. A detailed site plan shall be submitted for each use. Site Plan Review is required for:

- (1) All new development;
- (2) Change in use of an existing structure;
- (3) Additions to existing buildings; and/or
- (4) Renovations or remodeling of existing buildings requiring a building permit.

(C) **Site Orientation, Layout, Lot Size and Setbacks**

(1) For new construction the building facades shall either be in close proximity to the Sidewalks and street front, or contained in a traditional layout with the building facades facing into a parking lot and/or street front.

(2) For existing buildings, the location of the building may remain in its location, as long as the Site Plan otherwise reflects compliance with this code.

- (3) Size of Lots (for new construction or renovation):
 - (a) Minimum Lot area of 7,500 square feet
 - (b) Minimum Lot width of 50 feet
 - (c) Minimum Lot depth of 100 feet
- (4) Size of Yards
 - (a) Minimum front setback 20 feet
 - (b) Minimum building setback 40 feet
 - (c) Minimum side and rear setbacks shall comply with Section 153.033 B

(D) Design and Development Standards

(1) Architectural Requirements: The selected architectural materials must reflect a sense of quality and permanence by utilizing brick, stone, stucco, and concrete with synthetic textured material or split faced concrete block. EIFS (Engineered Insulated Finishing Systems) may be used at heights above four feet from grade for cornices, medallions, and other architectural details and elements. The color of building materials may include earth tones such as red, tan, brown, off white and pastels to provide a consistent color palate for the building or project.

(2) Façade Composition: All new buildings and newly renovated buildings shall have a defined base, a clear pattern of openings and surface features, a recognizable entry, an articulated roofline, and appropriate building materials. No wall shall extend more than 100 lineal feet without a vertical and horizontal building articulation of less than 10% percent of the vertical height and 2% of the horizontal plane of the building. (see **Exhibit "B"**). Blank walls are prohibited on the front façade and, for new buildings, on any facades that may face side streets. Store front glass must be incorporated into the façade along with projecting elements and recesses in the façade to define individual tenants within the building. Materials and architectural elements of the front façade shall be carried on all sides of the building.

(3) Building Entrances: Building entrances must be prominent and easy to identify. The main building entrance must be distinguishable along the storefront. Rear or side entries should be easy to identify and treated as a secondary main entrance. At least one of the following treatments is required:

- (a) Entrance located in the center of the façade, as part of a symmetrical overall composition;

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- (b) Entrance accented by architectural elements, such as columns, overhanging roofs, awnings, or balconies;
- (c) Entrance marked or accented by a change in the roofline or change in the roof type.

(4) Accent Elements: Typical elements such as cut-out openings and latticework, balconies, ornamental building numbers, medallions, and decorative ceramic tile accents may be suitable for design of building.

(5) Mechanical Equipment: Exterior-building walls shall be tall enough to shield all rooftop mechanical equipment from the view from the street. Other screening devices such as latticework, louvered panels, and other treatments that are compatible with the building's architecture may be considered on a case-by-case basis with approval by the City Council. All ground mounted mechanical equipment shall be screened within a masonry wall matching the building material and color.

(6) Landscaping, Lighting, Sidewalk and Streetscape

- (a) Street Trees: Minimum 3 inch caliber trees shall be planted along all street frontage in a straight line spaced 25 ft. apart between the sidewalk and the street in areas where possible and are required for new construction. Trees may be clustered in any section up to 100'. For example, 4 trees in one larger landscaped area may replace single trees at 25' intervals. Required street trees may be located between the building and the sidewalk if overhead power lines are present. Tree grates shall be provided for tree planting in paved areas. Open tree grates shall be at least five feet by five feet (5' x 5') with openings no more than ½ inch in width (in narrow sidewalk areas, three-foot by seven-foot (3' x 7') is an acceptable alternate). The size and shape of the tree grates should relate to the paving pattern. The grates must be designed to allow for tree trunk growth, constructed of ductile iron, with a durable factory applied finish. If string lights are anticipated in the trees, electrical outlets should be provided in the tree grate area. All trees and landscaping shall be provided with adequate water or irrigation systems.
- (b) Irrigation requirements. All buffer yards required under this section must be irrigated by an underground automatic irrigation system. Provided, however, that, when the total area of the buffer yard is less than 1,000 square feet, an irrigation system shall not be required if there is a working water faucet located no more than 100 feet from every part of the buffer-yard.

- (c) Landscaping requirements. The buffer yard shall be sodded with turf grass or ground cover that will provide the appearance of a finished planting. Minimum landscaping and buffering must be provided as outlined below. The landscaping in the buffer yard shall be protected from vehicular encroachment by curbs, concrete retainers or other permanent barriers.
- (d) Point system requirements. Buffer yards must earn a minimum of 25 points for each twenty five lineal feet of frontage. Points are awarded for providing and maintaining specific landscaping and design features. The points are accumulated as follows:

Each additional 5 feet in buffer yard width beyond required minimum of 20 feet	5
3 small ornamental trees for every 50 lineal feet of buffer yard	5
3 small ornamental trees for every 25 lineal feet of buffer yard	10
5 ornamental shrubs for every 25 lineal feet of buffer yard	15
1 tree is required, but additional trees may be placed for additional points every 25 lineal feet of buffer yard (minimum 12 feet in height, minimum trunk caliper of 3 inches measured 12" above root ball)	10

In addition to the required tree in subsection (i) above, an additional 15 points must be earned to meet the landscaping requirements.

- (e) Streetlights: Where decorative style streetlights compliment the architecture, they may be used along street frontages.
- (7) Other Architectural Elements.
- (a) Reflective glass shall not be used for windows; detailing for windows, door and other openings shall be of wood, glass or a metal material that is complimentary to the façade or building style.
 - (b) The use of Awnings and Canopies is encouraged.
 - (i) Ratios – Awnings shall be at an appropriate scale to the building size and configuration. They shall not extend above the roof line of any single-story structure, or above the top of the second floor of any multi-story

structure at the awnings' highest points. Awnings shall not completely obstruct any windows on the building.

- (ii) Projection – Since awnings must extend beyond the building face, a reasonable amount of projection shall be allowed. No awning shall extend more than five feet outward from the building face/surface.
- (iii) Colors and Materials – A mixture of colors is recommended, but no more than three different colors shall be used for awnings on a single building façade (excluding business logo, which may have more colors). Materials shall be of cloth or canvas, or another material which is complimentary to the period or building style (metal or plastic shall be prohibited).
- (iv) Movement – Except for slight movements that are normal for fabric canopies (i.e., along fringe, etc.), no movement shall be allowed for awnings and canopy structures.

(8) Pedestrian Streetscape – Pedestrian spaces shall be treated with amenities that are selected based upon their ability to unify the streetscape with the building façade. It is important that elements such as construction materials, colors, textures and fixture design compliment the structure. These features shall be repeated throughout the streetscape so as to unify the district as a whole.

(9) Open storage is prohibited in both the “C” and “C-A” districts except as provided in section (10) below.

(10) Outside Display (defined as placing of items that are displayed outside on a temporary basis) is only permitted for merchandise and/or seasonal items for a period not to exceed thirty (30) days (e.g., Christmas trees, pumpkins, etc.) and no more than three (3) times per calendar year). All Outside Display shall further be limited to the following:

- (a) Shall not be placed/located more than 25' from the main building.
- (b) Shall not occupy any off-street parking spaces
- (c) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way (i.e., sidewalk sales cannot block the sidewalk or extend out into the street).

- (d) Shall only be located in front of the property/business which is selling the item(s).
- (e) All outside display items shall be removed at the end of each business week (except for large seasonal items such as Christmas trees).
- (f) All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.

(11) **Building Identification.** Each building shall prominently display the property address (at a minimum, a legible address number) that is legible from the adjoining streets by fire and police personnel.

(E) **Wireless Telecommunication Facilities Standards.** For the purposes of this section, the term “antenna” means one or more wireless telecommunication antennas mounted on a monopole tower.

(1) **Existing Structures:** Roof-mounted wireless telecommunication antennas are allowed on nonresidential buildings in all zoning districts by right provided the antenna does not exceed the height of the building by more than ten (10) feet. Associated equipment shall be placed either within the same building or in a separate building which matches the existing building in character and building materials. Wireless telecommunication antennas are allowed by right on existing utility structures exceeding seventy-five (75) feet in height (including power or telephone poles, water storage facilities, and similar buildings and structures) operated by the City or public utility companies provided that the antenna does not exceed the height of the structure by more than ten (10) feet.

(2) **Freestanding Towers:** Freestanding Towers shall require a Special Use Permit (SUP) and shall only be permitted in zoning districts: Commercial (C) and Central Area Commercial (C-A). Freestanding wireless telecommunication antennas must be a minimum of three to one (3:1) height to distance ratio from single-family residential boundary lines. Freestanding wireless telecommunication antennae must be a minimum distance of 5,000 feet from another wireless telecommunications antenna (unless excepted by reason of an incentive provided below). Equipment buildings must be similar in color and character to the main or adjoining building or structure and screened by a chain link fence, a wrought iron fence with evergreen hedge, or masonry wall.

(3) **Incentives:** Wireless telecommunication antennas located on existing buildings or utility structures are not subject to the 5,000-foot separation requirement. A wireless telecommunication antenna may be located less than 5,000 feet but not less than 3,000 feet from another wireless telecommunication antenna provided that: (i) the antenna will be used for two or more wireless communications providers; or (ii) the antenna is designed and built so as to be capable of use by two or more wireless communications providers and the owner of the antenna certifies to the City that the antenna is available for use by another wireless communication provider on a reasonable and nondiscriminatory basis

and a cost not exceeding the actual prorated share of the design, construction and maintenance costs of the facilities.

GENERAL REGULATIONS

§153.045 MAXIMUM HEIGHT LIMITS MAY BE VARIED

(A) If a public building, church, temple, hospital, institution or school is set back and additional foot over the required minimum, it may be increased in height two feet over the height limit of the district in which located.

(B) Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, radio towers, electric and telephone lines and poles or necessary mechanical appurtenances are exempt from height regulations.

(C) Storage buildings are exempt from the story limitations, but not the “number of feet” limitations.

(D) Those parts of existing buildings that violate height regulations may be repaired and remodeled, but may not be reconstructed or structurally altered.

§153.046 GENERAL RULES FOR YARDS MUST ALSO BE OBSERVED.

(A) On lots fronting on two nonintersecting streets, a front yard must be provided on both streets.

(B) On corner lots in the “R” Districts, there shall be a yard along the side-street side of the tract of at least 10 feet, except the buildable width of a corner lot shall never be less than 30 feet. On corner lots in the “C” District, there shall be a yard along the side-street side of the tract of at least 5 feet. In an “R” District, where the rear yard of a corner lot abuts on the side yard of an adjacent lot, the corner lot shall provide a side yard along the side-street side of the tract which is equal in width to the depth required for the front yard of the adjacent lot. In those instances where the area adjacent to the rear yard of a corner lot in an “R” District has not been developed or the preliminary plat for the area has not been approved, the corner lot shall provide a side yard along the side-street side of at least 25 feet, except that the City Council may, in the exercise of its discretion, permit the side yard to be only 15 feet in width. In no event shall the buildable width of a corner lot be less than 30 feet.

(C) On corner lots in the “C”, “CA”, and “RM” Districts that rear upon a “R” District, a ten-foot yard must be provided along the side-street side.

(D) Where a block frontage is divided among districts with different front yard requirements, the deepest front yard as required by this Chapter shall apply to the entire frontage.

(E) Those parts of existing buildings that violate yard regulations may be repaired and remodeled, but not reconstructed or structurally altered, except as provided in Section 153.180.

(F) Required front yards shall be used only for landscaping, walkways and driveways necessary for access to the parking areas. In the "C" District, signs and light standards may be located in required front yards. No other structures are permitted.

§153.047 EXCEPTIONS IN YARD REGULATIONS.

(A) Where, on the effective date of this Chapter, 40% or more of a block frontage was occupied by two or more buildings, then the front yard is established in the following manner:

(1) Where the building farthest from the street provides a front yard not more than ten feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.

(2) Where subsection (1) is not the case and a lot is within 100 feet of a building on each side, then the front yard is a line drawn from the closest front yard for the frontage is and remains an average of the then existing front yards.

(3) Where neither subsections (1) nor (2) is the case and the lot is within 100 feet of an existing building on one side only, then the front yard is the same as that of the existing adjacent building.

(4) In no event shall a front yard in excess of 40 feet be required.

(B) Sills, belt course, cornices and ornamental features may project only one foot into a required yard.

(C) Open, unenclosed porches (not glassed in) and canopies may extend five feet into a front yard.

(D) Terraces which do not extend above the level of the ground (first) floor may project into a require yard, provided these projections be distant at least two feet from the adjacent lot line.

§153.048 OFF-STREET PARKING SPACES REQUIRED.

(A) Parking Spaces, in general:

(1) Empty space in fire lanes, bank or other drive-through lanes, which are adjacent to a curb, and gasoline or automobile fuel canopies or fuel pumps, shall not be considered as parking spaces meeting the requirement of this Code. No parking space located on a public street or alley may be included in the calculation of off-street parking spaces.

(2) For new construction, no parking space may be placed within ten feet of the right-of-way on Jefferson Boulevard or Cockrell Hill Road ("Buffer Yard"). The Parking Space and connecting driveways shall be a hard, level surface on which vegetation cannot grow constructed to City Code of either concrete or asphalt.

(B) The requirements for Off-Street Parking Spaces shall be as follows:

(1) For single-family and two-family dwellings, two spaces for each living unit in the building. The maximum allowable driveway width shall not exceed twenty-two (22) feet.

(2) For multiple-family dwellings, including but not limited to, townhouses, rowhouses and apartment hotels, two spaces for each dwelling unit.

(3) For hotels, one space for each guest room or suite of the first 20 individual guest rooms or suites; one additional parking space for each two guest rooms or suites in excess of 20 but not exceeding 40; one additional space for each four guest rooms or suites in excess of 40; plus one additional space for each four patron seats in rooms open to the nonresident public; plus one space for each 200 square feet or display or ballroom area.

(4) For motels, one space for each bedroom unit, plus one additional space for each four patron seats of facilities open to the nonresident public, plus one space for each 200 square feet of display or ballroom area.

(5) For lodging house, one space for each rental room.

(6) For churches erected on new sites, one parking space on the lot for each five seats in the main auditorium.

(7) For places of public assembly, including auditoriums and theaters, one space for each four seats provided.

(8) For elementary and junior high schools, public, parochial and private, ten spaces for each classroom.

(9) For hospitals, one-half space for each bed.

(10) For institutions, lodges and public buildings, one space for each 1,000 square feet of floor space.

(11) For offices, five spaces for each 1,000 square feet of floor space.

(12) For all commercial uses and personal service shops, and for all uses in either “C” or “C-A” districts, one space for each 150 square feet of floor area, except:

(a) For Buildings or Shopping Centers contained on contiguous lots which have Premises exceeding 9,000 square feet, the requirement shall be one space for each 200 square feet of floor area;

(b) For Buildings or Shopping Centers contained on contiguous lots which have Premises exceeding 25,000 square feet, the requirement shall be one space for each 250 square feet of floor area

(13) For industrial uses, one space for each two employees of maximum number employed at any one time.

(14) For all uses except those specified in this section, one space for each 150 square feet of floor area.

(15) All Parking requirements shall conform to the Texas Accessibility Standards adopted by the Texas Department of Licensing and Regulation in compliance with the State and Federal Guidelines.

(C) Exceptions in Off-Street Parking Regulations

(1) No Variance from the requirements for Off-Street Parking shall be permitted except for the following locations:

(a) Adjoining buildings with different property owners:

(i) on the north side of Jefferson Boulevard between Cockrell Hill Road and Ogden Street;

(ii) between Ogden and Phinney Streets; and

(iii) along the south side of Jefferson between Sunnyside and Phinney.

(b) Property owners who meet the requirements set forth in (C)(1)(a) of this Section may apply for a variance from the terms of the parking requirements set forth in this Chapter. The right to apply for a variance is terminated once the buildings are no longer physically adjoining each other.

(2) A Variance from the parking requirements of this Chapter may be granted in the discretion of the Board of Adjustment based on the historic use of the properties, the proposed parking requirements and the impact of such requirements on adjoining shared parking properties.

ACCESSORY USES AND BUILDINGS

§153.065 ACCESSORY USES PERMITTED.

- (A) In the “R” Districts:
- (1) Private garages.
 - (2) Vegetable and flower gardens.
 - (3) Animal accessory use (Chapter 92 of this Code)
 - (4) Tennis courts, swimming pools, garden house and similar uses customarily accessory to residential use.
- (B) In the “R-M” District, storage garages and parking lots for use solely of occupants of the premises are permitted.
- (C) In the “C” and “C-A” Districts, as provided in Section 153.066.
- (D) Temporary buildings for construction purposes are permitted in any district as accessory buildings during the course of construction, not to exceed six (6) months.
- (E) Accessory buildings may not be used for dwelling purposes.
- (F) Accessory buildings may be located in a rear yard.

§153.066 ACCESSORY BUILDINGS IN “C” AND “C-A” DISTRICTS

- (A) The use of accessory buildings in new development shall be prohibited.
- (B) Existing accessory buildings shall be permitted as a Nonconforming Use; however, if the accessory building becomes vacant for a period of six (6) months or more the rights granted to a nonconforming use shall cease.

§153.067 FENCES

Fences shall be located in accordance with the following rules:

(A) All persons desiring to construct a fence must obtain a permit from the City prior to construction.

(B) All fences must be constructed within the property lines.

(C) It shall be unlawful for a person to locate or construct a fence more than three feet (3') high within fifteen feet (15') of a street intersection for visibility purposes, measured from the curb or edge of the asphalt, whichever is closer.

(D) Residential fences less than eight feet (8') high may be located in the rear yard and the side yard up to the building line. In Residential Districts, no person shall locate or construct a fence more than six feet (6') high in any required front yard. In Commercial Districts, no person shall locate or construct a fence more than eight feet (8') high.

(E) The property owner, agent or tenant shall be required to maintain the fence on the property at all times. It shall be unlawful for any person to permit the fence to lean or have missing, loose or broken slats or panels. The fence shall not have any symbols, writings or other graffiti, except for signs which pertain to the address or occupancy of the property.

(F) No property owner, agent or tenant may have a fence that is made of barbed wire, hog wire or chicken wire or have a fence that is electrified.

(G) All front yard fences that exceed four feet (4') in height shall have opacity of at least 75%. In Commercial Districts, all front yard fences must be commercial grade wrought iron fences. In Residential Districts, all front yard fences over four feet (4') shall not be of solid construction.

§153.067(B) MAILBOX STRUCTURES.

All persons desiring to construct a mailbox structure shall obtain a permit prior to construction. The structure must be in good working order and built of solid materials, i.e. brick, masonry or metal, that can support the weight of the mailbox and the structure itself, and must be located inside the property line. All mailboxes must meet the minimum requirements established by the U.S. Post Office.

§153.068 VISUAL SCREENING AND BUFFERING REQUIREMENTS.

(A) The purpose of this section is to preserve property; values and to improve the living environment of the City, by providing visual screening barriers and buffers on commercial properties to protect adjoining residential properties from visually incompatible structures and land uses, overhead lighting, wind and dust and increased activity associated with commercial, industrial, institutional and other land uses.

(B) A visual screening device or buffer shall be provided at each boundary of any commercial property where the property abuts a residential property. The visual screening device or buffer required by this section shall be put in place at or before the time construction is completed for any nonresidential use. For lots with buildings in evidence on the effective date of this section, the required visual screening device or buffer shall be in place on or before June 14, 1995.

(C) Where a commercial lot abuts a residential property abuts a residential lot, a visual screening device or buffer shall be placed on the commercial lot to provide a solid visual barrier between the commercial lot and the residential lot. The visual screening and buffering may be accomplished by walls, fences, trees, vegetation, brush or shrubbery, provided that the materials or vegetation used to provide the visual screening device or buffer provide an adequate visual screening barrier between the commercial lot and the residential lot. The determination of whether a visual screening device or buffer provides an adequate visual screening barrier between the commercial lot and the residential lot shall be determined by the City Building Inspector.

(D) In addition to the general visual screening and buffering requirements stated in subsection (C) of this section, the following specific visual screening and buffering requirements shall apply to all commercial districts:

(1) All outdoor storage areas for materials, trash, mechanical equipment (including ground based satellite dishes), vehicles or other similar items shall be screened from view by a minimum six foot high visual screening wall, device or buffer.

(2) Roof mounted mechanical equipment, including satellite dishes or antennas, shall be screened by a visual screening device or buffer to be no less than the height of the equipment that is being screened if such equipment is visible from a public street or residential district.

(3) All loading, delivery and service bays shall be screened from street view by a screening wall, device or buffer of at least six feet in height.

(4) All outdoor lighting shall be directed down and screened or shielded away from adjacent residential properties and streets.

NONCONFORMING USES

§153.080 NONCONFORMING USES ARE REGULATED.

(A) Nonconforming uses are those lawful uses of premises that do not conform with the requirements of this Chapter on the effective date of the Chapter or any governing amendment thereto.

(B) Nonconforming uses may be continued; such a use may be changed to a use of a higher classification, and if there are not structural alterations, the use may be changed to a use of the same classification. If it is changed to a use in a higher classification or to a conforming use, it cannot be changed back to the original nonconforming use. For the purposes of this division, the “same classification” means uses permitted in the same district; a “higher classification” means uses in a district having a lower section number.

(C) If a business which is a nonconforming use stops, discontinues, or suspends activities for a period of thirty (30) days, thereafter the business and property must then conform to the use and development and zoning regulations.

(D) Restrictions on repair, enlargement and alteration of nonconforming use or structure.

(1) If a structure occupied by a nonconforming use is destroyed by fire, the elements or other cause, it may not be rebuilt except to conform to all the provisions of this code as applicable to the district in which the structure is located. In the case of partial destruction of a nonconforming use not exceeding 15% of its reasonable value, reconstruction will be permitted but the size may not be expanded or its use or ownership changed.

(2) Repairs and alteration may be made to a nonconforming building to the extent that the action does not involve an expenditure of greater than 50% of the reasonable value of the structure, except that at such time as a repair or renovation of a building requires a building permit, special use permit, a change in use to or from a nonconforming use, or requires application for a Site Plan Application or Permit for Alcohol Sales, then the property shall comply in full to the use and design standards regulations for the district in which the structure is located.

(3) The right to operate and maintain any nonconforming structure shall exist, provided the structure is maintained in a state of good repair and provided the structure does not become obsolete or substandard under any applicable provisions of this code or other ordinance of the City.

(E) Where the premises in a “R” District were used for open storage, the uses must be discontinued and the stored material removed within one year after the effective date of this Chapter. Where the enforcement of this section would impose an undue hardship on any property owner, the property owner shall have the right to appeal for relief to the Board of Adjustment, which, after public hearing, shall have the right to grant an extension of time as required in this section; provided, however, that the extension of time shall not be granted if it would be adverse to the best interest and general welfare of the citizens of the City.

(G) All junkyards, scrap yards and automobile wrecking yards shall have conformed to the requirements of this Chapter pursuant this Section F pursuant to Ordinance 1968-F adopted on 9-10-1968. Where the premises currently uses non-conforming signs or

billboards, the uses must be discontinued and the signs and billboards removed within three years from the date the signs were erected or one year after the effective date of this Chapter, whichever is longer.

(H) This Chapter in no way legalizes any illegal uses existing at the time of its adoption or thereafter.

(I) Existing uses of types eligible for special permits in Sec. 153.020 shall be conforming uses and shall receive a special permit for the existing use from the Building Inspector upon request, but shall require a special permit for any enlargement or addition.

§ 153.090 AUTHORITY.

The City Council maintains all zoning authority for the City of Cockrell Hill, except as granted to the Board of Adjustments in the event that the Council is not serving as the Board of Adjustments. The City Council may from time to time on its own motion or upon application amend, supplement, change, modify or repeal the regulations, restrictions and boundaries herein established.

§ 153.091 APPLICATION FOR AMENDMENTS OR CHANGES TO THE REGULATIONS AND/OR DISTRICT MAP.

(A) Any person, firm or corporation having a proprietary interest in a property within the corporate City limits of the City, requesting a change or amendment to the zoning classification of the property, the regulations or the District Map shall file an application for the change or amendment with the City Secretary. All applications for changes or amendments to zoning classifications, regulations or District Map shall be filed with the office of the City Secretary.

(B) All zoning changes or amendments must be consistent with the objectives and purposes of the Comprehensive Plan and/or District Map.

§ 153.092 NOTICE, PUBLIC HEARINGS AND PROCEDURE FOR AMENDING OR CHANGING THE ZONING CODE AND/OR ZONING DISTRICT MAP.

(A) Before the tenth day before the hearing date, written notice of each public hearing before the City Council on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed.

(B) The notice shall be served by deposit, properly addressed, postage prepaid, in the United States mail.

(C) If the property within 200 feet of the property on which the change is proposed is located in territory annexed to the City and is not included on the most recently approved municipal tax roll, the notice shall be given by publication in the official newspaper or a newspaper of general circulation in the City, before the fifteenth day before the date of the hearing, of the time and place of the hearing.

(D) The City Council may not adopt the proposed change until after the thirtieth day after the date the notice required by this section is given.

(E) No action to amend, supplement, change, modify or repeal the zoning ordinance, classifications, boundaries, regulations or District Map shall be final until there is a public hearing thereon, upon the proper notice, at which all parties in interest and citizens have an opportunity to be heard.

(F) Public hearings shall be recorded and minutes retained in the office of the City Secretary. The public hearing shall be conducted in accordance with the Open Meetings Act and may occur during the regular session of the City Council or at a special meeting called for the purpose.

§ 153.093 INFORMATIONAL SIGNS.

Upon the filing of an application to amend, supplement or change the zoning classification, regulation or District Map on a lot/tract of property, the owner/developer/applicant shall be required to place an informational sign on the lot/tract of property within five days after the date that the application was filed.

§ 153.094 PROTEST.

(A) If a proposed change to regulation or boundary is protested as set forth herein, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths of all members of the governing body.

(B) *Procedures.*

(1) The protest must be written and signed by the owners of at least 20% of either:

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

(2) In computing the percentage of land area under this section, the area of streets and alleys shall be included. The written protest by any person, firm or corporation

with an ownership interest in property as stated herein binds the entire property to the protest for purpose of calculating the 20%.

§ 153.095 RECONSIDERATION/NEW APPLICATIONS.

If the City Council fails to approve the proposed amendment, supplement or change to this Chapter, a new application for the proposed amendment, supplement or change shall not again be considered until after the expiration of one year from the date the proposed amendment, supplement or change was rejected; provided, however, that the application for an amendment, supplement or change may be reconsidered prior to the expiration of one year if:

(A) It be shown that a substantial change in conditions has taken place in the vicinity of the property which is the subject of the amendment, supplement or change; or

(B) The City Council rejected the amendment, supplement or change without prejudice to the refiling of same.

§153.096 NONCONFORMING USES.

Notwithstanding any of the provisions of this Chapter, any owner of property that has been completely rezoned by this Chapter to a more restrictive zone may, within thirty days from the final passage of this Chapter, apply for and receive a building permit for a use that was permitted in the zoning district prior to the adoption of the Chapter; provided, however, that construction under the building permit be commenced within ninety of its issuance, otherwise it shall be null and void. The City Council may, upon request, extend the time frame to commence construction for an additional three months.

BOARD OF ADJUSTMENT

§ 153.105 ORGANIZATION.

(A) The City Council may provide for the appointment of a Board of Adjustment, consisting of five members, appointed by the City Council, each to be appointed for a term of two years, removable for cause as set forth in Chapter 211 of the Local Government Code. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The City Council may appoint two alternate members to the Board of Adjustment, who shall serve in the absence of one or more regular members. The alternate members shall serve for the same period as the regular members, and any vacancies of alternates shall be filled in the same manner and alternates shall be subject to removal in the same manner as the regular members. Each member or alternate member of the Board shall be a resident citizen and

qualified voter of the City, at the time of his appointment. A member or alternate member who ceases to reside in the City during his term of office shall immediately forfeit his office.

(B) Should the City Council not provide for the appointment of a Board of Adjustment, the jurisdiction of the Board of Adjustment, including all powers, obligations and duties of the Board of Adjustment, shall be vested upon the City Council, which may act in place of the Board of Adjustment.

§ 153.106 JURISDICTION.

(A) The Board 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 administrative official in the enforcement of this Chapter.

(2) To hear and decide only such special exceptions as the board of adjustment is specifically authorized to pass on by the terms of this Chapter; to decide such questions as are granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Chapter, or to deny special exceptions when not in harmony with the purpose and intent of this Chapter.

(3) To hear and decide upon only such variances or modifications of the height, yard, area, coverage and parking regulations as the Board is specifically authorized to pass on pursuant to the terms of this Chapter.

(4) To hear and decide upon the existence of any nonconforming use and to enforce the amortization provisions as set forth in this Chapter.

(5) To hear and decide upon such other matters as authorized by this Chapter or under State law.

(B) The Board shall be guided by the following parameters in the performance of its duties under the powers vested in the Board:

(1) *Special Exceptions.*

(a) A special exception shall not be granted by the Board unless and until:

(i) Written application for a special exception is submitted indicating the section of this Chapter under which the special exception is sought and stating the grounds on which it is requested;

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- (ii) Notice shall be given at least fifteen (15) days in advance of the public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property for which the special exception is sought, at the City hall, and notice shall be provided in one other public place, such as a newspaper, at least fifteen (15) days prior to the public hearing;
 - (iii) A public hearing shall be held. Any party may appear in person or by agent or attorney;
 - (iv) The Board shall make a finding that it is empowered under the section of this Chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.
- (b) In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Chapter and the penalties set forth in section 153.999 shall apply. The Board shall prescribe a time limit within which the action for which the special exception is required shall begin or be completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception, without necessity of further action by the Board.

(2) *Variances.*

- (a) To authorize upon appeal in specific cases such variance from the terms of this Chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship and so that the spirit of this Chapter is observed and substantial justice is achieved. A variance from the terms of this Chapter shall not be granted by the Board unless and until a written application for a variance is submitted demonstrating.
 - (i) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved

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and which are not applicable to other lands, structures, or buildings in the same district or area;

- (ii) That a literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district or area under the terms of this Chapter;
 - (iii) That the special conditions and circumstances do not result from the actions of the applicant; and
 - (iv) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, structures, or buildings in the same district or area.
- (b) Nonconforming use of neighboring lands, structures, or buildings in the same district, and permitted use of lands, structures, or buildings in other districts shall not be considered grounds for the issuance of a variance.
 - (c) Notice of public hearing shall be given as set forth in subsection (2)(a)(1) of this section;
 - (d) A public hearing shall be held. Any party may appear in person, or by agent or by attorney;
 - (e) The Board shall make findings that the requirements of subsection (b)(1) of this section have been met by the applicant for a variance;
 - (f) The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
 - (g) The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - (h) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Chapter and the penalties set forth in

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section 153.999 shall apply.

- (i) Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Chapter in the district involved or any use expressly or by implication prohibited by the terms of this Chapter in said district.

(3) *Nonconforming uses.*

- (a) The Board, on its own motion or at the direction of the City Council or an interested property owner, may inquire into the existence of any nonconforming use in the City of Cockrell Hill, and after public hearing and investigation into the conditions created by the use, fire or health hazards created by the use, and any other danger or nuisance to the public due to or created by any condition or use existing on the property, require the discontinuance or termination of such use. The owner of the use under investigation by the Board shall have not less than ten (10) days written notice prior to the day of the public hearing. The Board, after having heard from any affected parties and the public, shall prescribe a reasonable time period for compliance, discontinuance and termination of the nonconforming use that allows for amortization of the owner's actual investment in the use that occurred before the time that the use became nonconforming.

- (i) In prescribing said time period, the Board shall consider the following factors:
 - a. The capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property at the time the use became nonconforming;
 - b. Any costs that are directly attributable to the establishment of compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages;
 - c. Any return on investment since inception of the use, including net income and depreciation; and
 - d. The anticipated annual recovery of investment, including net income and depreciation.

- (ii) If the Board establishes an amortization (or compliance) date for a nonconforming use, the use must cease operation on that date and it may not operate thereafter unless it becomes a conforming use.
- (iii) For purposes of this Section, “owner” means the owner of the nonconforming use at the time of the Board’s determination of an amortization (or compliance) date for the nonconforming use.
- (iv) The Board shall have the power to subpoena witnesses, documents and things; administer oaths; punish for contempt; and may require the production of documents and other things, under such regulations as it may establish or deem appropriate.

(4) *Appeal of Administrative Official’s Decision:* In exercising its powers, the Board may, in conformity with the provisions of the state statutes, as existing or hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and make such order, requirement, decision or determination, in the Board's opinion, as ought to be made and shall have all the powers of the officer from whom the appeal is taken.

- (a) Appeals to the Board concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer, department or board of the City affected by any decision of the administrative official. Such appeals shall be taken within a reasonable time, not to exceed fifteen (15) days, after the decision has been rendered by the administrative official by filing with the official and the Board a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (b) The Board 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. At the hearing, any party may appear in person or by agent or attorney.
- (c) An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board after the notice of appeal is filed with him, that, by reason of facts stated in the

certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

(5) *Action.* The concurring vote of at least four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of the administrative official, 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 variation in the application of this Chapter.”

(6) *Appeals from Board Action.* Any persons, jointly or severally, aggrieved by a decision of the Board under this Code, or any taxpayer or any officer, department or board of the municipality may present to a court of competent jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the Board and not thereafter.

§ 153.999 PENALTY.

Any person who shall violate any of the provisions of this Chapter, who shall fail to comply therewith or with any of the requirements thereof, who shall erect or alter any building or who shall commence to erect or alter any building in violation of any detailed statement or plan submitted or approved there under, shall for each and every violation or noncompliance be deemed guilty of a misdemeanor and shall be fined not more than \$2000, and each day the violation shall be permitted to exist shall constitute a separate offense. The owner of that building or premises or part thereof where anything in violation of this Chapter shall be placed or shall exist, and any architect, builder, contractor, agent or corporation employed in connection therewith who may have assisted in the commission of any such violation shall each be guilty of a separate offense and upon conviction shall be subject to the penalties herein provided.”

Section 3. This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Cockrell Hill, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

Section 4. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the

incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. All rights and remedies of the City of Cockrell Hill, Texas, are expressly saved as to any and all violations of the provisions of all previously adopted zoning or land use ordinances which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 6. The City Secretary of the City of Cockrell Hill, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Cockrell Hill, Texas, as authorized by Section 52.013, Texas Local Government Code. This ordinance shall take effect upon adoption and publication

Section 7. This ordinance shall become effective, and be in full force and effect, from and after the date of its passage, and it is accordingly so ordained.

PASSED AND APPROVED the 26 day of February, 2008.

Luis D. Carrera, Mayor

ATTEST:

Bret Haney, Executive Asst

APPROVED AS TO FORM:

Robert F. Brown, City Attorney