

# Zoning Ordinance Update

## CHAPTER 1 – GENERAL AUTHORITY

### 4.1.1.1 ENACTING CLAUSE

This Subtitle shall be known, cited and referred to as the Zoning Ordinance of the City of Lavon, and may be referred to herein as “Subtitle” or “Zoning Ordinance”.

### 4.1.1.2 PURPOSE

Regulations in this Zoning Ordinance are established in accordance with the Comprehensive Master Plan for the purpose of promoting the health, safety, morals, and general welfare and protecting and preserving places and areas of historical, cultural or architectural importance and significances for and of the citizens of the City of Lavon. All of the zoning regulations are designed to:

- 1) Implement the City of Lavon’s Comprehensive Master Plan;
- 2) Lessen congestion on streets, roads and highways;
- 3) Secure safety from fire, panic and other dangers;
- 4) Promote health and the general welfare;
- 5) Provide adequate light and air;
- 6) Prevent the overcrowding of land;
- 7) Avoid undue concentration of population; and
- 8) Facilitate adequate provision of transportation, water, sanitary and storm sewers, schools, parks and other public requirements facilities;

### 4.1.1.3 RELATIONSHIP TO OTHER PLANS

This Subtitle is intended to implement the policies and recommendations contained in the City of Lavon Comprehensive Master Plan, the Thoroughfare Plan and the Open Space Plan.

### 4.1.1.4 EFFECTIVE DATE

This Subtitle shall become effective from and after its adoption and publication as required by law, subject to the following:

- A) Any construction lawfully in progress and construction for which unexpired building permits have been issued in accordance with the prior ordinance shall be allowed to proceed and any such uses or structure, upon completion, shall be non-conforming uses or structures if they do not conform to the new ordinance.
- B) Pending applications for zoning changes submitted prior to the effective date of this Subtitle shall be processed in accordance with the City’s zoning regulations in effect at the time the application for the permit is filed and, upon recommendation of the Planning and Zoning Commission and approval of such application by the City Council in accordance with those applicable regulations, the change or amendment shall be classified and placed into the

proper zoning district where the use and occupancy is permitted as contained in this Subtitle.

- C) A building permit application or construction plans submitted prior to the effective date of this Subtitle shall be processed and constructed in accordance with the Zoning Ordinance in effect on the date of application.

#### 4.1.1.5 ENFORCEMENT

- A) It shall be unlawful to intentionally, knowingly or recklessly erect, construct, reconstruct, alter, maintain or use any building or land area in violation of any provision of this Subtitle.
- B) No permit, certificate, license or other document or verbal approval, subject to the provisions of this Subtitle shall be issued by any department, agency, or board until it has been determined that all substantive requirements have been met and all procedures have been followed.
- C) Offenses committed and all liabilities incurred prior to the effective date of any subsequent amendments to this Subtitle shall be treated as though all prior applicable regulations were in full force and effect for the purpose of sustaining any suit, action or prosecution with respect to such offenses and liabilities.

#### 4.1.1.6 PENALTY FOR VIOLATION

- A) Any person or corporation who violates any of the provisions of this Subtitle or fails to comply with any of the requirements, or builds or alters any building or use in violation of any detailed statement or plan submitted and approved is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than two thousand dollars (\$2,000) and each day such violation shall be permitted to exist shall constitute a separate offense.
- B) The owner or owners of any building or premises or part thereof, where anything in violation of this Subtitle is placed, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense and upon conviction shall be fined as provided above.
- C) A person commits an offense if he owns, uses or controls a premise and fails to comply with any of the provisions of this Subtitle.
- D) It is a defense to prosecution under this Subtitle that a person is in compliance with an order of the Board of Adjustment that specifically authorizes otherwise unlawful conduct under this ordinance.

#### 4.1.1.7 CIVIL ACTION

This Subtitle may be enforced through civil court action as provided by State law.

#### 4.1.1.8 CERTIFICATE OF OCCUPANCY AND REVOCATION OF DEVELOPMENT PERMIT

- A) No building hereafter erected or structurally altered shall be used, occupied or changed in use until a certificate of occupancy has been issued by the City of Lavon, stating that the building or proposed use of a building or premises complies with this Ordinance and the adopted building and related codes and the provisions of these regulations. A change in use shall be construed to mean any change in the occupancy of the building or premises. If provisions of this Subtitle are violated, the certificate of occupancy shall become null and void, and a new certificate shall be required for any further use of such building, structure or land.
- B) The City shall have the power to revoke any certificate, permit or development approval for the violation of any of these regulations or conditions imposed in the granting of a development permit. Revocation of a development permit requires:
- 1) A public hearing where the Planning and Zoning Commission shall determine the nature and extent of the violation of the development permit;
  - 2) Proper notice to the permittee;
  - 3) Written notice from the Chair which shall give the permittee the reasons for the proposed cancellation of the permit; and
  - 4) A finding by the Commission that reasonable corrective measures have not been done by the permittee and that revocation of the development permit is required.
- C) The Zoning Administrator shall have the right to order immediate compliance with any provision of this Subtitle or any condition of a development permit dealing with a direct health or safety issue. If immediate compliance is not obtained, the Zoning Administrator shall order immediate cessation of operation, cut off utility access, and refer the matter to the Commission for consideration of revocation of the permit.

#### 4.1.1.9 ADMINISTRATION AND ENFORCEMENT AUTHORITY

The provisions in this Subtitle shall be administered and enforced by the Zoning Administrator who shall be the City Administrator or such person's designee. The Zoning Administrator's duties shall include the bringing of legal action to ensure compliance with this Subtitle or other appropriate action or proceeding.

#### 4.1.1.10 EFFECTS OF PRIVATE COVENANTS

Nothing in this Subtitle shall be construed to render inoperative any restriction established by covenants running with the land, unless such restrictions are prohibited or are contrary to the provisions of these regulations. In the event of a conflict, this Ordinance controls.

#### 4.1.1.11 INTERPRETATIONS

Unless the context clearly indicates otherwise, the following rules apply in interpreting this Ordinance:

- A) Words used in the present tense include the future tense.
- B) Words in the singular include the plural, and words in the plural include the singular.
- C) The word “lot” includes the words “building site,” “site,” “plot” or “tract.”
- D) The word “shall” is mandatory and not discretionary.
- E) The word “may” is optional and discretionary.
- F) The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied.”

4.1.1.12 ESTOPPEL/WAIVER

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

**CHAPTER 2 –DISTRICTS AND ZONING DISTRICT MAP**

4.1.2.1 ZONING DISTRICTS ESTABLISHED

In order to regulate the use of land and buildings, and to regulate the location, height, bulk and size of buildings and other structures built on the land, the following districts are hereby created:

<b>Figure 4.1.2.1</b>	
<b>ABBREVIATED DESIGNATION</b>	<b>ZONING DISTRICT NAME</b>
<b>Agricultural &amp; Residential Districts</b>	
A	Agricultural
SF-1	Single Family-1
SF-2	Single Family-2
SF-4	Single Family-4
<b>Commercial Districts</b>	
R	Retail
M	Main Street
B	Business Park
<b>Planned Development Districts</b>	
PD-SF	Planned Development - Single Family
PD-MU	Planned Development - Mixed Use
PD-C	Planned Development - Commercial
PD-B	Planned Development - Business

4.1.2.2 PERMITTED USE TABLE

The following table presents the zoning district classifications and a summary of the permitted and conditional uses within those classifications. Uses are listed as being permitted (P), permitted by conditional use permit (C), and not permitted (as signified by "--").

If a use is not listed in the Zoning Ordinance or on the table, the use is prohibited. An applicant may request an amendment to the Zoning Ordinance to request the addition of an unlisted use.

**Figure 4.1.2.2**

**ZONING USE SUMMARY TABLE**

**P = Permitted Use      C = Conditional Use      -- = Not Permitted**

RESIDENTIAL USES	RESIDENTIAL DISTRICTS				NON-RESIDENTIAL & SPECIAL DISTRICTS			
	A	SF-1	SF-2	SF-4	R	M	B	PD
Single family (SF) detached dwelling	P	P	P	P	--	P	--	P
Home based business within a SF dwelling	P	P	P	P	--	P	--	P
Single family - zero lot line	--	--	--	--	--	--	--	P
Single family attached - townhomes	--	--	--	--	--	--	--	P
Duplex	--	--	--	--	--	--	--	P
Multi-family dwelling	--	--	--	--	--	C	--	C
Real estate model home	--	C	C	C	--	--	--	P
Vertically mixed use multifamily residential and retail	--	--	--	--	--	P	--	--
Bed and Breakfast	--	--	--	--	--	C	--	--
Manufactured home detached dwelling park	C	--	--	--	--	--	--	--
Guest house, caretaker or security quarters for SF dwelling	P	P	--	--	--	--	--	--
Accessory structure with restrictions	P	P	P	P	--	--	--	--
SF parking garage	P	P	P	P	--	--	--	--
SF swimming pool	P	P	P	P	--	--	--	P
SF hobby shed	P	P	P	P	--	--	--	--
SF tennis court	P	P	P	P	--	--	--	P

RETAIL, COMMERCIAL, PERSONAL SERVICE USES	A	SF-1	SF-2	SF-4	R	M	B	PD
Amusement establishment	--	--	--	--	C	C	--	P
Animal boarding, kennel or shelter	C	--	--	--	--	--	--	P
Automobile fueling station	--	--	--	--	C	--	--	P
Automobile service establishment	--	--	--	--	C	--	P	P
Bakery/confectionery retail establishment	--	--	--	--	C	C	--	C
Building material sales	--	--	--	--	C	--	--	P
Business service and sales	--	--	--	--	P	P	--	P
Car wash	--	--	--	--	C	--	--	P
Cash and retail lending service establishment	--	--	--	--	C	--	--	C
Commercial greenhouse or nursery	C	--	--	--	--	--	--	--
Commercial stable	C	C	--	--	--	--	--	--
Dry-cleaning retail establishment	--	--	--	--	C	C	--	P

### ZONING USE SUMMARY TABLE

**P = Permitted Use      C = Conditional Use      -- = Not Permitted**

	RESIDENTIAL DISTRICTS				NON-RESIDENTIAL & SPECIAL DISTRICTS			
	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>RETAIL, COMMERCIAL, PERSONAL SERVICE USES</b>								
Establishments > 75% revenue from alcohol sales	--	--	--	--	C	--	--	C
Exercise and sports establishment	--	--	--	--	C	C	--	P
Financial institution	--	--	--	--	P	P	--	P
Home and residence services	--	--	--	--	P	P	--	P
Hotel	--	--	--	--	C	--	--	P
Insurance	--	--	--	--	P	P	--	P
Medical and state licensed health services	--	--	--	--	P	P	--	P
Merchandise rental	--	--	--	--	C	--	--	P
Nursery, garden, landscape material sales	--	--	--	--	C	--	--	P
Outdoor or drive-thru sales or service	--	--	--	--	C	C	--	P
Personal services	--	--	--	--	P	P	--	P
Pet grooming and care services	--	--	--	--	C	C	--	C
Pharmacy	--	--	--	--	P	P	--	P
Private clubs and organizations (indoor)	--	--	--	--	C	--	--	C
Professional service and sales	--	--	--	--	P	P	--	P
Recreational vehicle park	C	--	--	--	--	--	--	--
Real estate	--	--	--	--	P	P	--	P
Restaurant	--	--	--	--	P	P	--	P
Retail sales	--	--	--	--	P	P	--	P
Retail storage facilities	--	--	--	--	C	--	--	P
Second-hand/used goods/pawn shop	--	--	--	--	C	--	--	C
Tattoo service and similar body artwork	--	--	--	--	C	--	--	C
Technical service and sales	--	--	--	--	P	P	--	P
Vapor smoking services	--	--	--	--	C	C	--	C
Vehicle display and sales	--	--	--	--	--	--	--	P
Vehicle parking garage	--	--	--	--	--	--	--	P
Vertically mixed use retail and multifamily residential	--	--	--	--	--	P	--	--
Veterinarian service, animal clinic	C	--	--	--	C	C	--	P

	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>INSTITUTIONAL &amp; CIVIC USES</b>								
Cemetery or mausoleum	P	P	P	--	--	--	--	--
Church or place of worship	P	P	P	P	C	C	--	P
Community recreational use	--	C	C	C	--	--	--	--

### ZONING USE SUMMARY TABLE

**P = Permitted Use      C = Conditional Use      -- = Not Permitted**

	RESIDENTIAL DISTRICTS				NON-RESIDENTIAL & SPECIAL DISTRICTS			
	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>INSTITUTIONAL &amp; CIVIC USES</b>								
Community swimming pool	--	C	C	C	--	--	--	P
Country club	--	C	C	C	--	--	--	P
Day care and educational facility - privately-owned	C	C	C	C	P	P	--	P
Educational facility - public	P	P	P	P	--	--	--	P
Federal, State or City owned or controlled facilities	P	P	P	P	P	P	P	P
Franchise-holding facilities and utilities	C	C	C	C	--	--	--	P
Golf course	--	C	C	C	--	--	--	P
Municipal uses	P	P	P	P	P	P	P	P
Nursing home or assisted living facility	--	--	--	--	--	--	--	P
Open Space Preserves	P	P	P	P	P	--	--	P
Public parks and playgrounds	--	P	P	P	P	--	P	P
Public recreational facilities	--	P	P	P	P	--	--	P
Wind energy, utility or telecommunication tower	C	C	C	C	--	--	--	P

	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>AGRICULTURAL USES</b>								
Animal husbandry, livestock	P	P	--	--	--	--	--	--
Crop cultivation, forestry, farming	P	P	--	--	--	--	--	--
Dairy farm	P	--	--	--	--	--	--	--
Wholesale plant nursery	P	--	--	--	--	--	--	--
Horse stables, riding academies and equestrian boarding	P	C	--	--	--	--	--	--

	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>INDUSTRIAL USES</b>								
Auto, tool or equipment rental	--	--	--	--	--	--	--	P
Commercial cleaning or laundry plant	--	--	--	--	--	--	--	P
Data center and software design	--	--	--	--	--	--	--	P
Information assembly, broadcasting, carriers	--	--	--	--	--	--	P	--
Information data processing	--	--	--	--	--	--	P	P
Information distribution, publication, production	--	--	--	--	--	--	P	--
Information telecommunication, sellers	--	--	--	--	--	--	P	--
Machinery, heavy equipment, truck sales and service	--	--	--	--	--	--	--	P
Manufacturing - appliance, instrument, controller	--	--	--	--	--	--	P	--
Manufacturing - device, parts, vehicle	--	--	--	--	--	--	P	--

## ZONING USE SUMMARY TABLE

**P = Permitted Use**

**C = Conditional Use**

**-- = Not Permitted**

	RESIDENTIAL DISTRICTS				NON-RESIDENTIAL & SPECIAL DISTRICTS			
	A	SF-1	SF-2	SF-4	R	M	B	PD
<b>INDUSTRIAL USES</b>								
Manufacturing - die, tooling, equipment, machinery	--	--	--	--	--	--	P	P
Materials bending, cutting, machining, molding, welding	--	--	--	--	--	--	P	P
Medical or scientific laboratory	--	--	--	--	--	--	--	P
Open storage and open processing operations	--	--	--	--	--	--	C	--
Outside sales and storage	--	--	--	--	--	--	--	P
Packaging of parts and materials prev manufactured	--	--	--	--	--	--	P	P
Parts assembly, materials sorting prev manufactured	--	--	--	--	--	--	P	P
Professional, scientific and technical services	--	--	--	--	--	--	P	P
Storage of flammable liquids and materials	--	--	--	--	--	--	C	--
Temporary concrete batch plant	--	C	C	C	--	--	--	P
Trade contractor office and dispatch	--	--	--	--	--	--	--	P
Truck repairs and service	--	--	--	--	--	--	P	--
Warehousing and distribution facilities	--	--	--	--	--	--	P	P
Wholesale enterprises w/o materials storage and distrib	--	--	--	--	--	--	P	--

**The table does not supersede the zoning ordinance. There may be restrictions for permitted and conditional uses.**

**For uses listed in the PD District, consult property-specific PD ordinances.**

**Uses not identified as permitted or conditional are prohibited.**

### 4.1.2.3 ADOPTION OF THE OFFICIAL ZONING DISTRICT MAP

- A) The boundaries of each zoning district are delineated and shown on the official Zoning District Map of the City of Lavon, as amended from time to time. The official Zoning District Map, together with all notations, references, dimensions, designations and other information shown on the map, is adopted and made part of this Subtitle, as amended, by reference.
- B) The official Zoning District Map shall be stored, maintained, and kept current by the City Secretary.

### 4.1.2.4 AMENDMENTS TO THE OFFICIAL ZONING ORDINANCE AND ZONING DISTRICT MAP

- A) No change or amendment to the official Zoning District Map shall be authorized without the approval of a zoning application.



- B) The application shall be processed in accordance with the requirements of this Subtitle, as amended. Each application for amendment, supplement or change to the provisions of this Subtitle shall be made in writing on the City's required form and shall be filed with the City Secretary along with the appropriate fee in accordance with the Annual Fee Schedule for administration of the Zoning Application. An applicant does not have any right or entitlement to withdraw or table an application placed on the Planning and Zoning Commission agenda.
- C) No change to the official Zoning District Map shall be authorized or become effective without final action of the City Council or by order of a court of competent jurisdiction.
- D) No zoning shall be finalized unless annexation of the property for which the zoning is sought has been completed.
- E) The City Council may from time to time amend, supplement or change by Ordinance the boundaries or the Zoning District Map or of the land use regulations and restrictions of this district or any other regulation or provision of this Ordinance.
- F) The Planning and Zoning Commission shall hold a public hearing on a proposed adoption of or amendment to a zoning regulation or zoning district boundary before submitting a report to the City Council. Additionally, upon compliance with all applicable notice requirements, the Planning and Zoning Commission and the City Council may hold a joint public hearing.
- G) Before the fifteenth (15<sup>th</sup>) day before the date of the hearing, notice of the time and place of the public hearing shall be published in an official newspaper or a newspaper of general circulation in the City of Lavon.
- H) In addition to the general notice above, at least ten (10) days before the hearing date, written notice of each public hearing before the Planning and Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within two hundred (200) feet of the property on which the change in zoning classification is proposed.
- I) In addition one (1) sign shall be posted on the property, at each public road frontage of the property, notifying the public that a proposed change is pending and more information is available by contacting the City of Lavon.
- J) A written recommendation of the Planning and Zoning Commission shall be forwarded to the City Council. In the event that the Planning and Zoning Commission recommends that a proposed change to a regulation or boundary be denied, a vote of at least three-fourths (3/4) of all of the members of the City Council shall be required to overrule such recommendation.

- K) After public notice and after receipt of the Planning and Zoning Commission recommendation, the City Council shall hold a public hearing in regard to the proposed application, consider such application, and may take such action as determined appropriate with regard to the application. .
- L) An application that has been denied, without prejudice, by the City Council may be resubmitted at any time for reconsideration by the City Council. A new filing fee must accompany the request. The City Council may deny any application with prejudice. If an application has been denied with prejudice the application may not be resubmitted to the City for one (1) year from the original date of denial. However, a changed application may be submitted at any time.

#### 4.1.2.5 ZONING DISTRICT BOUNDARY RULES

- A) The following rules shall apply in determining uncertain boundaries of a district as shown on the official Zoning District Map:
  - 1) Where a boundary follows a public street or alley, the centerline of the street shall be the boundary.
  - 2) Where a boundary follows a platted lot line, the lot line shall be the boundary.
  - 3) Where a boundary follows a city limit line, the city limit line shall be the boundary.
  - 4) Where a boundary follows a railroad or utility line, the boundary is the established center line of the railroad or utility right-of-way. If no centerline is established, the boundary is midway between the right-of-way lines.
  - 5) Where a boundary follows the centerline of streams, rivers, canals, lakes or other bodies of water, the boundary is the centerline. The centerline is interpreted as being midway between the shorelines of the body of water. If the centerline changes, the boundaries are construed as moving with the centerline.
  - 6) In cases where district boundary lines are indicated as approximately paralleling a street, alley, right-of-way, easement line or other feature existing at the time of the enactment of this Ordinance, as amended, they shall be construed as parallel to or extensions of the street, alley, right-of-way, easement line, or other feature, unless otherwise specifically dimensioned on the official Zoning District Map.
  - 7) In instances where district boundary lines divide a parcel of un-subdivided property, the precise location of the district boundary shall be determined by the use of the scale appearing on the official Zoning District Map, unless the boundary is indicated by a specific dimension on the official Zoning District Map.

8) Where any public right-of-way is officially vacated or abandoned, the land use district regulations applied to abutting property shall extend to the former centerline of the vacated or abandoned right-of-way.

B) The Planning and Zoning Commission shall determine the location of the district boundary when uncertainty of boundaries exist that cannot be resolved by referencing Section 4.1.2.4 (A) above. Any person who is aggrieved by that determination may appeal to the City Council. Appeals shall be made in writing to the City Council within 10 days of the decision.

#### 4.1.2.6 ZONING ANNEXED TERRITORY

A) All territory annexed into the City shall be classified as A (Agricultural District), until zoning is established by the City Council. The procedure for establishing zoning on annexed territory shall conform to the procedure established by law for the adoption of original zoning regulations.

B) In an area classified as A (Agricultural District) upon annexation:

1) No person shall erect or construct any building or structure in any newly annexed territory without first applying for and obtaining a building permit or certificate of occupancy from the Building Official.

2) No permit for the construction of a building or use of land shall be issued by the Building Official other than a permit which will allow the construction of a building permitted in the A (Agricultural District).

### **CHAPTER 3 – DEFINITIONS**

1. Abutting or Adjacent Property Lines: Property lines adjacent and in common for a minimum distance of twenty-four (24) feet or district lines.

2. Accessory Use, Unit, Structure, or Building:

A) A building, structure, or use which is subordinate to and serves a primary use or principal structure;

B) A building, structure, or use which is subordinate in footprint on the lot, subordinate in area, extent, use or purpose to the primary use, building or structure served;

C) A building, structure, or use which contributes to the comfort, convenience, or necessity of occupants of the primary use served;

D) A building, structure, or use which is located within the same zoning district as the primary use; or

E) A building, structure, or use which in residential districts is not used for commercial purposes other than legitimate home occupations/home based

business, and is not rented to or utilized by other than bona fide servants employed on the premises or members of the family of the occupant(s) of the principal structure. Examples of accessory buildings, structures, or uses include, but are not limited to private garages, greenhouses, servant's quarters, tool sheds, hobby shed, storage buildings, greenhouses, or bathhouses adjoining a swimming pool, swimming pool, sports court and tennis court. Persons are related within the meaning of this provision if they are related within the first or second degree of consanguinity or affinity.

- 1) Attached accessory structure - a structure that shares an attached or common roof with the primary structure.
- 2) Detached accessory structure - a structure that does not share an attached or common roof with the primary structure.
3. Agricultural uses: Agricultural uses include activities that raise, produce or keep plants or animals. Examples include but are not limited to breeding or raising of fowl or other livestock animals; dairy farms; stables; riding academies; equestrian boarding facilities; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.
4. Alley: An "alley" is a public right-of-way or thoroughfare which is not less than Eighteen Feet (18') wide and affords only a secondary means of access to abutting property.
5. Alter: To change the size, shape or physical outline, copy, nature of message, intent or type of an entity including signs and buildings.
6. Animal Boarding: See Kennel.
7. Apartment: An "apartment" is a room or group of rooms used as a dwelling for one family or household being one (1) dwelling unit, said unit being equipped for the preparation of food.
8. Apartment Building: A building or portion of a building used or intended to be used as a dwelling for three (3) or more families or households, each household living independently of each other, with each unit equipped for preparation of food.
9. Barn, Commercial or Private: See Stable, Commercial or Private.
10. Basement: A story (or portion of a story) partly or totally below ground level, with less than one-half of its height (measured from floor to ceiling) above ground level.
11. Bed and Breakfast Inn:
  - A) Traditional. A residential structure where three (3) or fewer rooms are rented to transient paying guests on an overnight basis with no more than one meal served daily, where no cooking facilities are provided in the rooms and where the total number of permanent and transient occupants does not exceed six (6) at any one time. The owner-operator of a traditional Bed and Breakfast resides at that place. This is classified as a normal home occupation.

- B) Non-traditional. A residential structure where more than two (2) rooms are rented to transient paying guests on an overnight basis with no more than one (1) meal served daily, where no cooking facilities are provided in the rooms and where the total number of permanent and transient occupants does not exceed four (4) at any one time. The owner-operator may or may not reside there.
12. Block: A tract of land bounded by streets (or street rights-of-way) or a combination of streets and public parks.
  13. Brick: Includes kiln fired clay or shale brick manufactured to ASTM C216 or C652, Grade SW, can include concrete brick if the coloration is integral, shall not be painted, and it is manufactured to ASTM C1634; minimum thickness of two and one quarter inches when applied as a veneer, and shall not include unfired clay or shale brick.
  14. Buffer Zone: An unimproved area required between adjacent property lines or adjacent structures.
  15. Building: Any structure which is affixed to the land, has one (1) or more floors and a roof, and is bounded by either open area or the lot lines, and is designed for human use or habitation, shelter for animals, chattels, records or other moveable property. A building shall not include such structures as billboards, fences or communication towers or structures with interior surfaces not normally accessible for human use, such as tanks, smoke stacks, grain elevators, and oil cracking towers or similar structures.
  16. Building Line: The line established by the required yard.
  17. Building Official: Is the officer or other designated authority charged with the administration and enforcement of the City's building codes. Subtitle, or the duly authorized representative.
  18. Building Setback Line: The line defining an area on the lot between the street right-of-way and all other property lines and the building line within which no building or structure shall be constructed, encroach or project except:
    - (a) Sidewalks;
    - (b) Fences that conform to the Fence Ordinance regulations;
    - (c) Driveways;
    - (d) Retaining walls;
    - (e) Fountains and other landscaping elements;
    - (f) Light poles if fed from underground utilities;
    - (g) Flag poles;
    - (h) Mail boxes; and
    - (i) Signs that conform to the Sign Ordinance regulations.
  19. Building Front Setback Line: A line parallel to the street right-of-way line, which the building faces and from which it takes its primary access.

20. *Building Rear Setback Line*: A line parallel to an adjacent lot, alley or street in the case of double frontage lots, which the building backs up to and from which it has its rear or secondary access.
21. *Building Side Setback Line*: A line parallel to an adjacent lot or street right-of-way on a corner lot, up to which the building sides.
22. *Cemetery or Mausoleum*: A use, structure or place designated for burial of the dead.
23. *Civic Center*: A use, building or structure that is owned, managed or operated in whole or in part by a public governmental agency for governmental, cultural, recreational, athletic, convention or entertainment uses and activities.
24. *Common Area or Common Property*: A parcel or parcels of land, together with the improvements to the land, the use and enjoyment of which are shared by the owners and occupants of the individual building sites in a subdivision
25. *Community Home*: A building, structure or use providing food and shelter, personal guidance, care, rehabilitation services or supervision for not more than 6 disabled persons, regardless of their legal relationship to one another and 2 supervisory personnel. A group home is a community-based residential home operated in accordance with the Texas Human Resource Code Chapter 123 and the Texas Department of Mental Health and Mental Retardation Act. A group home is a use by right that is authorized in any district zoned residential.
26. *Conditional Use*: A use, building and structure allowed upon issuance of a permit after additional review and regulation to ensure compatibility between uses and for developing conditions which allow for compatibility with adjacent uses.
27. *Court (for building purposes)*: An open, unoccupied space bounded on more than two (2) sides by the walls of a building.
28. *Church*: A use, building or structure used for religious activities, education and worship.
29. *Day Care - Commercial*: Any facility or premises where a total of seven (7) or more children under fourteen (14) years of age, and/or elderly adults, regularly attend for all or a portion the twenty-four (24) hour day for purposes of custody, care, or instruction; and which children or elderly adults are not members of the immediate nuclear family of any natural person actually operating the facility or premises.
30. *Day Care - In-Home*: Any occupied private residence utilized for purposes of custody, care, or instruction; and which persons are not members of the immediate nuclear family living in the residence, pursuant to and as further defined by Chapter 42 of the Texas Human Resources Code.
31. *Decorative Concrete Block*: Includes highly textured finish, such as split faced, indented, hammered, fluted, ribbed or similar architectural finish; coloration shall be integral to the masonry material and shall not be painted; minimum thickness of two and five-eighths inches (2-5/8") when applied as a veneer; shall include light weight and featherweight concrete block or cinder block units.

32. District: Any section or area of the City of Lavon for which the City Council has adopted zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards, the intensity of use, and other land use matters.
33. Drive-In or Drive-Through Service or Sales: A retail transaction or the serving of a patron while in a motor vehicle or the permitting of consumption of food or drink while in a motor vehicle parked on the premises.
34. Duplex Dwelling Unit: A residential structure providing complete, independent living facilities for two (2) separate families, including permanent provisions for living, sleeping, cooking, eating, and sanitation in each unit.
35. Dwelling: Any building or portion of a building constructed for use by or occupied exclusively by one (1) family with culinary and sanitary conveniences provided for their use.
36. Dwelling Unit (DUs): A structure, constructed on the site of its location, designed for a person or family to live in, in an individual or private state, and to be occupied as a home for an occupant, or the occupant and the family, if any, and not designed to be occupied by more than one (1) family.
37. Erect: To build, construct, attach, hand, place, suspend or affix, and when used in reference to signs, such term shall also include the painting of signs on the exterior surface of a building or structure, and shall also include the painting or affixing of signs to the exterior or interior surface of windows and shall include signs located interior to a building but readily visible from the exterior.
38. Exterior Architectural Feature: Any building or portion of a building that, due to its design, adornment, decoration or unique features, is of interest to the general public as an important asset to the community.
39. Family: Any number of individuals occupying a dwelling unit and living together as a single housekeeping unit, in which not more than three (3) individuals are unrelated by blood, marriage, adoption, or guardianship; the term includes a single individual.
40. Farm Animals: Domestic animals generally used or raised on a farm for profit, including but not limited to cattle, horses, cows, sheep, bulls, stallions, jacks, swine, goats and all domesticated fowl used for eggs or food.
41. Floodplain: Property that has a history of inundation or is determined to be subject to flood hazard, specifically identified by the Federal Emergency Management Agency on its flood hazard boundary maps (FHBM) for the City of Lavon. Within the floodplain, no development or alteration of the floodplain due to dumping, excavation, storage, filling or mining operations shall be conducted without a development permit approved by the City of Lavon. Note that the fact that land may not be classified as floodplain shall not be interpreted as assurance that such land or area is not subject to periodic local flooding.
42. Floor Area Ratio: The ratio of the gross floor area of a building or buildings in relations to the required lot area. The floor area ratio (FAR) may be expressed as a percent of the lot area.

43. Frontage: All of the property on one side of a street between two intersecting streets (crossing or terminating) measured parallel along the line of the street, or if the street is a dead-end, then such term shall mean all of the property abutting on one side between an intersecting street and the dead-end of the street; additionally, “frontage” shall mean all of the property on one side of a street between two lot lines.
44. Garage, Private: An accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned by the occupants of the building to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle of not more than a two (2)-ton capacity.
45. Garage, Public: A building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
46. Height: The vertical distance of a building, structure or portion thereof, measured from the mean level of the ground surrounding the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip or gambrel roofs.
47. Hobby Shed: An accessory use and structure not used for commercial purposes nor rented to others as defined under Accessory Use item (5)
48. Home Based Business: A home occupation or use for profit or non-profit involving business, art or hobby activities including the selling to, production of, and provision of services to others not part of the on-site single family residential use.
49. Home Occupation: Any occupation or activity carried on or occurring in a Dwelling Unit by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a name plate as allowed by the City’s Sign Ordinance attached to the building, and no display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling; and, no mechanical equipment is used except that which is of a type similar in character to that normally used for purely domestic or household purposes. Retail sales from the home to walk up or drive up customers, cafes, or diners and barber or beauty shops are not considered a home occupation. Examples of home occupations include crafts; woodworking; dressmaking; custom cakes or other small scale catering that uses no commercial type or size equipment; professional services such as bookkeeping, handling of telephone orders, technology or electronic communication; Traditional Bed and Breakfasts limited to three (3) rooms for rent, and day care for six (6) or fewer persons.
50. Hotel: A structure or building or group of structures or buildings whose principal function or use is to provide rooms for temporary lodging where entrance to reach room is from a completely enclosed area and which structure may also contain a restaurant, conference rooms and retail uses or personal service uses.
51. Kennel: Any location where four (4) or more dogs or cats aged six (6) months or older and other household pets are groomed, bred, boarded, trained or sold. Pet retail stores where animals are offered for sale as a secondary use, and where



grooming, small animal medicine, surgery and/or training is conducted as secondary to the retail selling of pet goods and supplies are not included within the definition of kennel.

52. Loading Space: A paved all weather impervious surface area, enclosed or unenclosed, sufficient in size to store a one (1) ton truck or larger truck and a passenger bus, with a paved surface driveway connecting the loading space with the public street or alley and permitting ingress and egress.
53. Lot: A lot is the smallest physical and undivided tract or portion of land as shown on a duly recorded plat, having frontage on a public street.
54. Lot, Corner: A lot that has an interior angle of less than one hundred and thirty five (135) degrees at the intersection of two (2) street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents of the curbs at the points of intersection of the side lot lines intersect at an interior angle of less than one hundred and thirty five (135) degrees.
55. Lot Coverage: The percent of the lot covered with structures as compared to open space. Structures include all buildings, parking lots and driveways. See definition of open space.
56. Lot, Double Frontage: A lot having a frontage on two (2) parallel streets.
57. Lot, Interior: A building lot other than a corner lot.
58. Lot Area: The area of a lot between lines, including any portion of an easement that may exist within such lot lines.
59. Lot of Record: A lot which is part of a subdivision, the map or plat of which has been recorded in the office of the County Clerk of Collin County; or a parcel of land, the deed of which was recorded in the office of the County Clerk of Collin County.
60. Manufactured Home: A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, and which is built on a permanent chassis and designed to be used as a dwelling and shall have a permanent concrete foundation, connected to public water and sanitary sewer utilities, and includes plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 Code of Federal Regulations, Section 3282.8(g). The manufactured home is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site and which does not have wheels or axles permanently attached to its body or frame.
61. Manufactured Home Lot: A parcel of land in a manufactured home park for the placement of a single HUD-code manufactured home and the exclusive use of its single family occupants.
62. Manufactured Home Park: A parcel of land designed as an area for manufactured homes to be installed as residences containing individual lots of record for the

permanent placement of a manufactured home on an individual lot of record with roads, utilities, and drainage in accordance with all applicable provisions of the City's Code of Ordinances and other regulations governing a manufactured home park.

63. Model Home: A dwelling unit within a residential development used for the purpose of display of amenities and marketing the sale of homes within the residential development and functioning as a sales office until sold to a third party buyer.
64. Motel: A structure or building or group of structures or buildings whose principal function or use is to provide rooms for temporary lodging in which the rooms are directly accessible from an outdoor parking area.
65. Multi-Unit Dwelling: A residential structure providing complete, independent living facilities for three (3) or more families or households living independently of each other and including permanent provisions for living, sleeping, cooking, eating, and sanitation in each unit. Condominiums are included in this definition.
66. Nonconforming Use: The use of land or a building, or portion thereof, which does not conform with the use regulations of the district in which it is situated and which use was legally in existence prior to the effective date of this Subtitle and any subsequent amendments.
67. Nursing Home: A building, or portion thereof, used or designed for medical services for the housing of the aged, and/or mentally or physically challenged persons who are under daily medical, psychological, or therapeutic care; including assisted living centers; provided that this definition shall not include rooms in any residential dwelling, hotel, or apartment hotel not ordinarily intended to be occupied by said persons.
68. Occupancy: The use or intended use of land or buildings by owners, occupants, proprietors or tenants.
69. Off-Street Parking: An area for storage of an automobile that is entirely on private property.
70. Open Space: The part of a building lot, including courts or yards, which are open and unobstructed from its lowest level to the sky, which is accessible to all residents or users upon a building lot, which is not part of a roof, driveway, parking area, and which does not include any structures.
71. Open Space Reserve: Open space reserve shall mean an open area, a minimum size of five (5) acres, which is designed and intended to be used for outdoor recreation. An area of usable open space reserve shall include Texas native or natural landscaping, walks, water features and decorative objects such as artwork or fountains. Open space reserves shall not include recreational equipment or recreational sports fields, or buildings, except those buildings designed specifically for maintenance of the open space reserve. Open space reserves may include parking areas and driveways.

72. Outdoor Storage: The keeping, in an unenclosed area, of any goods, items, material or merchandise in the same place for more than twenty-four (24) hours and not actively being sold.
73. Parking Space: A paved all weather impervious surface area, enclosed or unenclosed, sufficient in size to store one (1) automobile, with a paved surface driveway connecting the parking space with the public street or alley and permitting ingress and egress of an automobile.
74. Place of Worship: A building or structure, or group of buildings or structures that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.
75. Planned Unit: A land area, which (1) has individual building sites and common property such as a park and (2) is designed to be capable of satisfactory use and operation as a separate entity without necessarily having the participation of other building sites or other common property. The ownership of the common property may either be public or private.
76. Planned Unit Development: A single planned unit as initially designed; or such a unit as expanded by annexation of additional land areas; or a group of continuous planned units, whether as separate entities or merged into a single consolidated entity.
77. Planning Commission: The Planning and Zoning Commission of the City of Lavon, Texas.
78. Recreation Vehicle: A vehicle designed for human habitation for recreational purposes and capable of being used on a highway. Recreational vehicles shall include a motor home, travel trailer, and camping trailer, but shall not include a mobile home or manufactured home.
79. Recreational Vehicle Park: Any area or tract of land where two or more recreational vehicle lots or spaces are rented or held for rent.
80. Repair: The reconstruction or renewal of any part of an existing building for the purposes of maintenance. The word repair shall not apply to structural alterations.
81. Right-of-Way: The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City of Lavon has an interest.
82. Roof Line: The height which is defined by the intersection of the roof of the building and the wall of the building. For mansard-type roofs, the roof line shall be defined as the top of the lower slope of the roof. Roofs with parapet walls completely around the building and not exceeding four (4) feet in height may be considered as the roof line.
83. Site Plan: A Plan showing use of the land, to include locations of buildings, drives, sidewalks, parking areas, drainage facilities, and other structures to be constructed.

84. Servants Quarters: Living spaces for domestic servants, gardeners or childcare, adult /elder care or health specialists that have the same utility connections as the main house.
85. Setback or Building Line: A line, which marks the setback distance from the property line and establishes the minimum required front, side, or rear yard space of a lot.
86. Stable, Commercial or Private: Commercial barn or stable shall mean a boarding facility used for the rental of stall space or for the sale or rental of horses, mules or similar large animals. Private barn or stable shall mean a facility used solely for the owner's private purposes for the boarding, sale or keeping of horses, mules or ponies, and not kept for remuneration, hire or sale.
87. Stone: Includes naturally occurring granite, marble, limestone, slate, river rock, and other similar hard and durable all weather stone that is customarily used in exterior building construction; may also include cast or manufactured stone product, provided that such product yields a highly textured stone-like appearance, its coloration is integral to the masonry material and shall not be painted, and it is demonstrated to be highly durable and maintenance free; natural or manmade stone shall have a minimum thickness of two and five-eighths (2-5/8) inches when applied as a veneer.
88. Storage, Self Service: A structure containing separate, individual, and private storage spaces of varying sizes.
89. Storage Garage: A "storage garage" is any premises and structure used exclusively for storage of more than five (5) automobiles.
90. Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between the floor and the ceiling next above it.
91. Street: A way for vehicular traffic or parking, whether designated as a highway or as any of the following types:
- A) Residential Street: serves a residential neighborhood and may be a cul-de-sac, loop or short street.
  - B) Collector Street: serves to collect traffic from multiple residential streets.
  - C) Arterial Street: a through traffic street, generally aligned in the direction of major traffic movement carrying such traffic into or out of the city.
  - D) Parkways and Boulevards: across-city traffic thoroughfares, for movement of great amounts of traffic.
  - E) Commercial Streets: serve both business and industrial areas.
92. Structural Alterations: Any change which would tend to modify the life of a supporting member of a structure such as bearing walls, columns, beams, or girders.
93. Structure: Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

94. Stucco: Stucco shall be defined as traditional three (3) step hard coat stucco applied over a masonry or concrete backing.
95. Temporary Concrete Batch Plant: An On-site manufacturing plant utilized for a limited period of time as allowed in this Subtitle where concrete is mixed before being transported to a construction site ready to be poured. .
96. Townhouse: A single-family dwelling unit constructed in a series or a group of attached units with property lines separating such units, usually with the dividing wall between units falling on the property line.
97. Transmission Tower: A wireless telecommunications support structure designed primarily of the support and attachment of a wireless telecommunications facility. Transmission towers include:
- A) Monopole Tower - A self-supporting structure composed of a single spire used to support telecommunications antenna and/or related equipment.
  - B) Lattice Tower - A self-supporting three (3) or four (4) sided, open, steel frame structure used to support telecommunications antenna and/or related equipment;
  - C) Guyed Tower - An open, steel frame structure that requires wires and anchor bolts for support.
  - D) Stealth Tower - A manmade tree, clock tower, church steeple, bell tower, utility pole, light standard, identification pylon, flagpole, or similar structure, that is camouflaged to be unrecognizable as a telecommunications facility, designed to support or conceal the presence of telecommunication antennas and blends into the surrounding environment.
98. Use: The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner or performance of such activity with respect to the performance standards of this Subtitle.
99. Use Permits: Permits authorized by the City Council upon recommendation of the Planning and Zoning Commission allowing certain uses in zoning districts.
- A) Conditional Uses are uses which are generally compatible with those uses permitted by right in a zoning district, but which require individual review of their location, design, configuration, density and intensity. These are granted to the land and will continue to be valid with sale or transfer of property.
  - B) Specific Uses are uses which are not generally compatible with those uses permitted by right in the zoning district, but by the unusual circumstances (existing uses and historic uses) in the area, consideration of the use is advisable. These are granted to a person and do not transfer with change of ownership of the property unless such change is by inheritance.
100. Utility Facility: Infrastructure services and structures necessary to deliver basic utilities essential to the public health, safety, and welfare. This includes all lines and facilities provided by a public or private agency and related to the provision,

distribution, collection, transmission or disposal of water, storm and sanitary sewage, oil, gas, power, information, telephone cable, electricity and other services provided by the utility. This does not include Wireless Telecommunication Facilities.

101. Variance: A legal modification in the application of specific Zoning District regulations such as yard, lot width and yard depth, signs, set back and off-street parking, and loading regulations granted due to the special conditions or circumstances peculiar to a particular parcel of property.
102. Wireless Telecommunication Facility: An unstaffed facility operating for the transmission and reception of low-power radio signals consisting of an equipment shelter or cabinet, a support structure, antennas, and related equipment.
103. Yard: An open space open from its lowest point to the sky unobstructed at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except for the ordinary projection of sills, belt courses, cornices, chimneys, buttresses, ornamental features and eaves and as otherwise provided herein.
104. Yard, Front: A yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street line and the main building including any projections of the usual uncovered steps, uncovered balconies, or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
105. Yard, Rear: A yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building including any projections thereof other than the projections of uncovered steps, unenclosed balconies, or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.
106. Yard, Side: A yard between the main building and side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main buildings or any projections thereof.

Definitions not expressly described herein are to be construed in accordance with customary usage in municipal planning and engineering practices. Words used in the masculine or feminine shall also be construed to mean the other.

## **CHAPTER 4 – REGULATIONS APPLICABLE TO ALL DISTRICTS**

### **4.1.4.1 APPLICABILITY**

The regulations in this Chapter shall apply to all zoning districts in this Subtitle, as amended.

### **4.1.4.2 GENERAL**

- A) No land or structure shall be used, nor intended for any use, other than those uses permitted in the district where the land or structure is located.
- B) No structure shall be erected, reconstructed, enlarged, structurally altered, or moved in such a manner as to evade conformity with height, bulk, lot area, use and other regulations for the district where the structure is located.
- C) No yard provided adjacent to a structure for the purpose of complying with provisions of this Subtitle, as amended, shall be considered as providing any part of a yard for another building on the same lot or on an adjacent lot.
- D) Any use that is not expressly permitted or allowed in this Subtitle shall be prohibited.
- E) In measuring the height of a building, parapet walls not exceeding four (4) feet, chimneys, cooling towers, ornamental cupolas, domes, antenna, support structures or spires shall be excluded from the measurement.
- F) In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.
- G) Double frontage lots shall not be permitted.
- H) Both private and common ownership property designated for outdoor living and/or recreation may be designated as open space.

#### 4.1.4.3 ACCESSORY STRUCTURES

- A) Attached accessory buildings shall conform to the regulations applicable to the main building to which they are attached.
- B) Detached accessory buildings shall be subject to all of the following regulations, in addition to any other applicable regulations:
  - 1) Number of Buildings:
    - a) No more than two detached (2) accessory structures may be placed on any lot.
    - b) The number of detached accessory structures that may be placed on an Agricultural zoned lot is limited by lot coverage.
  - 2) Lot coverage:
    - a) The combined floor area of all accessory buildings shall not exceed ten (10) percent of lot coverage or sixty (60) percent of the primary structure, whichever is less. In no case shall the combined area of the primary structure and accessory building(s) exceed the maximum percentage of lot coverage allowed for the zoning district on which the structures are placed.
    - b) Stables shall be limited in area to ten (10) percent of lot coverage.
  - 3) Setback and Building Line Requirements:

a) Street: Accessory buildings shall not extend beyond a front, side or rear building line adjacent to a street. Provided however, for a lot utilized by a single detached dwelling, a gazebo or similar open air landscape structure may be located beyond the building line and within the front yard setback but shall not be larger than one hundred (100) square feet.

b) Easement: No accessory structure shall be located within any easement.

c) Side: Accessory buildings shall not be located closer than five (5) feet to the side property line when the accessory building is located behind the main building.

d) Rear: When the accessory building is a garage or carport with rear access, the rear setback shall be a minimum of twenty (20) feet from the property line. All other accessory buildings shall not be located closer than five (5) feet to the rear property line.

e) Other Structures - Accessory buildings, other than carports, shall not be located within five (5) feet of any other structure.

f) Stables shall not be located within fifty (50) feet of any property line or dwelling.

#### 4) Roof:

a) The minimum roof slope for all accessory structures shall be 3:12, unless the accessory structure is prefabricated, pre-finished, and covers less than two (2) percent of the lot or is a carport.

b) The color and materials of the roof of the accessory structures shall closely resemble the color and materials of the roof of the main structure, unless the accessory structures is prefabricated, pre-finished, and covers less than (2) percent of the lot or is a carport.

#### 5) Exterior Walls:

a) Accessory structures covering less than two (2) percent of the lot are required to be constructed with exterior walls composed of metal with a baked-on enamel or vinyl finish, vinyl, wood structure that is prefinished and prefabricated, composite masonry façade, or the same masonry content required of the main structure.

b) Accessory structures covering more than two (2) percent of the lot are required to be constructed with exterior walls composed of composite masonry façade material or the same masonry content required of the main structure.

c) Barns and Stables located on property zoned Agricultural (AG) are exempt from the masonry requirement for exterior walls.

d) No pressure treated wood is permitted as exterior finish.



6) Height:

Accessory structures shall be limited to a height of not more than twenty (20) feet.

7) Specific Use Permit:

Commercial equestrian or rodeo arenas whether enclosed, partially enclosed, or open air require a Specific Use Permit.

8) Fences:

Regulation of fences is controlled by separate City Ordinance.

- C) Accessory Structure that do not conform to the requirements of Section 4.1.4.3 may be permitted with a conditional use permit.

4.1.4.4 WIND-POWERED SYSTEMS

- A) Wind powered systems designed for production of power to be sold to a power company or a consumer, are considered commercial wind power systems and require a Specific Use Permit.
- B) All other wind powered systems may exist only as an accessory use. A Wind Powered System may not be erected on a lot until a primary structure has been constructed.
- C) Size limitations. Wind-powered systems, including windmills and/or wind turbines, shall be setback from all boundaries of any lot or habitable structure by a distance equal to at least one hundred twenty-five percent (125%) of the tower's height, as measured from average natural ground level, to the highest point of the arc of the wind blades' elevation above such ground level.
- D) Design Requirements
- 1) Wind Powered System shall be installed according to the manufacturer's recommendations and under the seal of a professional engineer registered by the State of Texas. Wet stamps are required.
  - 2) Wind powered systems within a Residential or commercially zoned district shall be limited to 5kw of peak power output.
  - 3) Wind powered systems within Industrial Zoned Districts total peak power output shall be limited to 25kw.
  - 4) All wind powered systems are limited to 60dB at any point along the property line.
  - 5) The tower shall be monopole without guy wires.
  - 6) The color of all wind powered systems shall be non-reflective and of neutral tones or of earth tones such as subdued green or brown. Grey, including naturally darkening galvanized grey, is also an acceptable neutral tone. Wind powered systems shall not be finished in bright or vivid colors intended to draw attention to the structure.

- 7) Multiple wind powered systems are allowed on any lot, provided they are separated by a distance equal to at least the height of the tallest such tower, as measured from average natural ground level to the highest point of the wind blades' elevation above such ground level.
- 8) Lighting. All lighting not required by Federal Aviation Administration (FAA) regulations is prohibited.
- 9) Signs. There shall be no signage on the tower structure or any rotor blade.

E) Required Plans and Specifications.

- 1) In addition to the submittals otherwise required upon making application for a building permit, the application for a building permit for a Wind Powered System must be accompanied by a Site Plan.
- 2) A site plan of the proposed Wind Powered System shall include:
  - a) A survey or scaled drawing of the site on which the proposed Wind Powered System will be constructed.
  - b) The location of the Wind Powered System in relation to the property on which the system will be constructed.
  - c) All components of the system including the distance of the system to the property lines; required setbacks; existing structures on the site; natural features such as watercourse and trees.
- 3) Elevation drawings shall include:
  - a) The design and height of the proposed Wind Powered System;
  - b) Detailed drawings of all system components.

F) Permitting Requirements

- 1) Small wind turbines must have been approved under the Emerging Technologies program of the California Energy Commissioner or any other small wind certification program recognized by the American Wind Energy Association.
- 2) Compliance with Uniform Building Code: Building permit applications for wind systems shall be accompanied by standard drawings of the Wind Powered System, including the tower, base and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code or International Building Code and certified by a licensed professional engineer registered by the State of Texas shall also be submitted. Wet stamps shall be required.
- 3) Compliance with FAA Regulations: Wind Powered Systems shall comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

- 4) Compliance with National Electric Code: Building permit applications for Wind Powered Systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of the installation conforms to the National Electrical Code.
- 5) Utility Notification: No Wind Powered System shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

G) Maintenance and Abandonment.

- 1) A property owner with a valid permit to operate a wind powered system shall submit to the Building Inspection Department a bi-annual letter prepared by a Professional Engineer registered in the State of Texas, stating that the wind powered system continues to meet current electrical and structural requirements as set forth in this Title.
- 2) A Wind Powered System that has become unstable, leans significantly out of plumb, or that poses a danger of collapse shall be removed or brought into repair within sixty (60) days following notice by the Building Official to the owner of the lot upon which the System is located. The Building Official may order immediate repairs in the event of imminent collapse. Failure to make the required repairs within the time required shall be a violation of this Subtitle.
- 3) If the owner of a Wind Powered System plans to abandon or discontinue, or is required to discontinue, the operation of the System, the owner shall notify the Building Official by certified U.S. mail of the proposed date of abandonment or discontinuation. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation.
- 4) In the event that an owner fails to give such notice, the Wind Powered System shall be considered abandoned if the Wind Powered System is not operated for a continuous period of six (6) months.
  - a) Upon abandonment or discontinuation of use, the property owner shall physically remove the Wind Powered System within ninety (90) days from the date of abandonment or discontinuation of use.
  - b) "Physically remove" includes, without limitation, the actual, complete removal of the tower, turbine and all other components of the Wind Powered System from the site of the original installation.

4.1.4.5 HOME OCCUPATION / HOME BASED BUSINESS

- A) Home based business and/or home occupation means business activities and uses that are incidental to the primary use of the premises as a residence and conducted on the residential premises by a resident of the premises.
- B) The following regulations shall apply to a home based business or home occupation.
  - 1) On-premise advertisements or signage is prohibited.
  - 2) No display of goods or materials or signage shall be allowed.
  - 3) Alteration of the exterior appearance of the residential structure or its accessory structure(s) shall not be permitted, nor shall the business occupation or use within the dwelling be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or by signs, or the emission of sounds, noises, dust, odors, fumes, smoke, or vibrations.
  - 4) There shall be no more than two (2) employees who do not reside on the premises and who perform work on the premises.
  - 5) Pedestrian and vehicular traffic shall be limited to that normally associated with residential districts.
  - 6) There shall be no outdoor storage of materials or equipment. There shall be no merchandise visible from outside the dwelling.
  - 7) The use of utilities and community facilities shall be limited to that normally associated with the use of the property for residential purposes.
  - 8) No use or storage of mechanical equipment not recognized as being part of normal household or hobby use shall be visible from the public street or neighboring residential use(s).
  - 9) All parking shall be on premises with no on street parking allowed for a home based business or home occupation.
  - 10) As defined by the Human Resource Code, Chapter 42 an “In-home Day Care” or a “Family home” that is certified, listed or registered with the State of Texas is exempt from this Subtitle, and governed by the rules and regulations of the State of Texas.

#### 4.1.4.6 FLOODPLAIN AREA

- A) Land that is classified by FEMA as located within the one hundred (100) year flood plan shall be conserved or reclaimed as natural undeveloped lands unless in conformance with the FEMA and U.S. Army Corp of Engineers regulations.
- B) Except as otherwise expressly provided by Ordinance, within the floodplain, no development or alteration of the floodplain due to dumping, excavation,

storage, filling or mining operations shall be conducted without a development permit approved by the City of Lavon.

- C) Note that the fact that land may not be classified as floodplain shall not be interpreted as assurance that such land or area is not subject to periodic local flooding

#### 4.1.4.7 TRANSMISSION OR TELECOMMUNICATION TOWER

- A) Transmission or Telecommunications tower means a structure more than ten (10) feet tall, used for wireless transmission antennas.
- B) Site Plan review and approval is required and a minimum of two off-street parking spaces are required.
- C) Additional Provisions:

A site plan is required for all transmission and or telecommunications towers. Site plan review shall include the following provisions:

- 1) Telecommunications towers shall not be located within or closer to a residential district than two hundred (200) feet or a 3 to 1 distance to height ratio, whichever is greater.
- 2) New telecommunications towers shall be a minimum distance of five thousand (5,000) feet from another telecommunications tower.
- 3) All guys and guy anchors shall be located within the buildable area of the lot and not within the front, rear, or side yard setbacks and no closer than five (5) feet to any property line.
- 4) The base of the tower shall be enclosed by security fencing at least eight (8) feet high.
- 5) Equipment buildings shall be similar in color and character to the main or adjoining building or structure or blend with the landscape and other surroundings immediately adjacent to it and shall be screened by a masonry wall.
- 6) The tower shall be erected and operated in compliance with current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards.
- 7) A telecommunications tower shall be designed and built so as to be capable of use by more than one wireless communications provider, including providers such as cellular or PCS providers.
- 8) All towers shall be of a tapering monopole construction, except that another type tower shall only be allowed upon a showing that it would cause less visual impact on surrounding property than a similar monopole structure.
- 9) No lettering, symbols, images, signs or trademarks large enough to be legible to occupants of vehicular traffic on any adjacent roadway shall

be placed on or affixed to any part of a telecommunications tower, antenna array or antenna, other than as required by FCC regulations regarding tower registration or other applicable law.

- 10) Telecommunications towers shall be constructed to minimize potential safety hazards. Telecommunications towers shall be constructed so as to meet or exceed the most recent FCC standards and prior to issuance of a building permit the Building Official shall be provided with an engineer's certification that the tower's design meets or exceeds those standards. Guyed towers shall be located in such a manner that if the structure should fall along its longest dimension, it will remain within property boundaries and avoid habitable structures, public streets, utility lines and other telecommunications towers.
- 11) Telecommunications towers and equipment buildings shall be located to minimize their number, height and obtrusiveness, to minimize visual impacts on the surrounding area, and in accordance with the following policies:
  - a. The height of towers and monopoles shall have the least visual impact and be no greater than required to achieve service area requirements and potential co-location, when visually appropriate.
  - b. Site telecommunication facilities to minimize being visually solitary or prominent when viewed from residential areas and the public rights-of-way. The facility shall be screened by vegetation, tree cover, topographic features, and buildings or other structures to the maximum extent possible and reasonably feasible.
  - c. Telecommunication facilities shall be placed to ensure that historically significant landscapes are protected. The views of and vistas from architecturally and/or historically significant structures should not be impaired or diminished by the placement of telecommunication facilities.
  - d. A variance may be granted by the Board of Adjustment to these policies for a telecommunications tower when it is determined that such a variance better accomplishes the policies set out in this Ordinance than would a strict application of the requirement. Such variance shall be no greater than necessary to accomplish those policies.
- 12) No signals or lights or illumination shall be permitted on a monopole unless required by the Federal Communications Commission, the Federal Aviation Administration, or the City.
- 13) If any additions, changes, or modifications are made to the monopole, the changes shall comply with all of the above requirements for new towers and shall demonstrate, through the submission of engineering and structural data, that the addition, change, or modification

conforms to structural wind load and all other requirements of the current Building Code.

- 14) Telecommunication towers which have not been used for a period of one (1) year shall be removed from a site. The last telecommunication service provider to use a tower shall notify the City Secretary within thirty (30) days that use of a tower has been discontinued.

#### 4.1.4.8 TELEPHONE AND TELECOMMUNICATION EXCHANGE OR FACILITIES BUILDINGS WITHOUT SHOPS OR OFFICES

- A) Definition: Telephone exchange without shops or offices means a facility for the switching and routing of telephone transmissions.
- B) Required Parking: One (1) space for every one thousand (1,000) square feet of floor area.
- C) Site Plan review and approval is required

#### 4.1.4.9 TRANSIT PASSENGER SHELTER

- A) Definition: Transit passenger shelter means a structure which affords protection from the weather to persons who are waiting to board a publicly owned or franchised transit vehicle.
- B) Site Plan review and approval is required

#### 4.1.4.10 UTILITY OR GOVERNMENT INSTALLATION OTHER THAN LISTED

- A) Definition. Utility or government installation other than listed means:
  - 1) A "utility other than listed" is a public or private facility franchised or operated by a Governmental unit as a utility, and which is not specifically covered by the use regulations in this chapter.
  - 2) A "government installation other than listed" is an installation owned or leased by a government or quasi-public agency and which is not specifically covered by the use regulations in this chapter.
- B) Required Parking. As determined at the time of site plan review based on the standard for the use that is most equivalent to the proposed use in terms of function and operation.
- C) Required Loading. As determined at the time of site plan review based on the standard for the use that is most equivalent to the proposed use in terms of function and operation.
- D) Site Plan review and approval is required.

## **CHAPTER 5 – REGULATIONS APPLICABLE TO RESIDENTIAL DISTRICTS**

### 4.1.5.1 AGRICULTURAL DISTRICT (A)

- A) *Purpose*

Land within the City of Lavon which is presently used for agricultural purposes and to which urban services may not yet be available should continue to be used for such agricultural purposes until needed for urban purposes in conformity with the City's Comprehensive Master Plan. Livestock may be maintained indoors and outdoors within the Agricultural District. It is anticipated that lands currently zoned and used for agricultural purposes will eventually be used for more urban purposes as the City develops. Newly annexed areas will be zoned as an agricultural district initially.

B) *Permitted Uses*

- 1) Agricultural uses
- 2) Uses including structures related to animal husbandry and raising of crops
- 3) Single family detached dwelling
- 4) Home based business or occupation within the single family detached dwelling
- 5) Accessory buildings limited to no more than ten percent (10%) of the lot area and a minimum of fifty (50) feet from a lot or property line
- 6) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 7) Public educational facility
- 8) Cemetery or mausoleum provided the principal or accessory structures are a minimum of fifty (50) feet from a lot or property line
- 9) Churches and places of worship
- 10) Guest house, caretakers quarters, security quarters provided said facility shall be a minimum of one thousand two hundred (1,200) square feet, have separate access to a public road or street, and have a minimum of twenty (20) feet front, side and rear yard
- 11) Two (2) accessory uses customarily associated with a single family detached dwelling and limited to parking garage, swimming pool, unlit tennis court, unlit sports court and hobby shed

C) *Conditional Uses*

- 1) Animal clinic, shelter, boarding and kennel with inside pens and outside pens provided that outside pens shall be a minimum of fifty (50) feet from a lot or property line
- 2) Commercial greenhouse or Nursery (wholesale and retail) provided the retail use and any structure shall be a minimum of fifty (50) feet from a lot or property line



- 3) Commercial stable provided the structure is a minimum of fifty (50) feet from a lot or property line
- 4) Manufactured Home Detached Dwelling Park of two (2) or more dwellings
- 5) Recreational Vehicle Park of two or more vehicles
- 6) Privately owned educational and day care facility
- 7) Wind energy, utility or telecommunication tower provided such structure is a minimum of fifty (50) feet from a lot or property line
- 8) Franchise holding facilities and utilities holding a franchise under the City of Lavon

D) *Area Requirements*

1. Lot Size
  - a. Minimum Lot Area (square feet): 5 acres
  - b. Minimum Lot Width (feet): 200
  - c. Minimum Lot width of corner Lots (feet) 230
  - d. Minimum Lot Depth (feet) 300
2. Dwelling Regulations
  - a. Minimum Square Footage: 1,200
  - b. Maximum number of single-family detached dwellings units per lot: one
3. Yard Requirements – Main Structures Setback
  - a. Minimum Front Yard (feet): 100
  - b. Minimum Side Yard (feet): 20
  - c. Minimum Side Yard of Corner Lots (feet): 50
  - d. Minimum Side Yard of permitted nonresidential use (feet): 50
  - e. Minimum Rear Yard (feet): 50
  - f. Maximum Lot Coverage: 40%
4. Height of Structures
  - a. Maximum Main Structure (feet): 40
  - b. Maximum Accessory Structure (feet): 20

E) *Additional Provisions*

- 1) A minimum separation of one hundred (100) feet between agricultural buildings and dwelling units on the same lot shall be maintained. Agricultural buildings for the purpose of this provision means those buildings used of the raising of crops or animals, or for the storage of

agricultural equipment, supplies, or products with a minimum separation of twelve (12) feet between such buildings.

- 2) A minimum setback of fifty (50) feet from the property line shall be provided for any agricultural building.
- 3) Non-Enclosed attached patio covers, although an addition to and part of the main structure shall be exempt from the rear yard setback requirements above. Patio covers shall be allowed to extend into the rear setback no closer than ten (10) feet from the rear property line provided maximum lot coverage is not exceeded.

#### 4.1.5.2 SINGLE FAMILY - 1 ACRE DISTRICT (SF-1)

##### A) *Purpose*

SF-1 is a single family residential district for detached dwelling units on individual lots and requiring a minimum lot size of 1 acre. The cultivation of agricultural crops and livestock is allowed.

##### B) *Permitted Uses*

- 1) Single family detached dwelling
- 2) Home based business or occupation within the single family detached dwelling
- 3) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 4) Public educational facility
- 5) Cemetery or mausoleum provided the principal or accessory structures are a minimum of fifty (50) feet from a lot or property line
- 6) Churches and places of worship
- 7) Uses related to animal husbandry and raising of crops on unplatted land
- 8) One (1) agricultural related accessory building limited to no more than ten percent (10%) of the lot area and a minimum of fifty (50) feet from a lot or property line
- 9) Guest house, caretakers quarters, security quarters provided said facility shall be a maximum of one thousand two hundred (1,200) square feet, have separate access to a public road or street, and have a minimum of twenty (20) feet front, side and rear yard
- 10) Two (2) accessory uses customarily associated with a single family detached dwelling and limited to parking garage, swimming pool, unlit tennis court, unlit sports court and hobby shed

##### C) *Conditional Uses*

- 1) Community or neighborhood swimming pool or recreational use provided the use and structures are a minimum of fifty (50) feet from a lot, yard or property line
- 2) Commercial or privately used stable provided the structure is on a minimum ten (10) acre lot and a minimum of fifty 50 feet from a lot or property line
- 3) Real estate model home
- 4) Privately owned educational and day care facility
- 5) Golf course or country club
- 6) Wind energy, utility or telecommunication tower, used for non-commercial purposes, provided such structure is no less than fifty (50) feet from a lot or property line and in every case no less than its height from the property line
- 7) Franchise holding facilities and utilities holding a franchise under the City of Lavon
- 8) Temporary concrete batch plants limited to no more than six (6) months, however the limit on the temporary permit may be extended for one (1) additional six (6) month period, by the Building Official as necessary to complete construction for the project under which the temporary permit was granted; the location of the batch plant is subject to the approval of the Building Official

*D) Area Requirements*

- 1) Density – Maximum: one unit per gross acre
- 2) Lot Size
  - a) Minimum Lot Area: 1 acre (43,560 square feet)
  - b) Minimum Lot Width (feet): 100
  - c) Minimum Lot width of corner Lots (feet): 175
  - d) Minimum Lot Depth (feet): 200
- 3) Dwelling Regulations
  - a) Minimum Square Footage: 1,800
  - b) Maximum number of single-family detached dwellings units per lot: one
- 4) Yard Requirements – Main Structures
  - a) Minimum Front Yard (feet): 30
  - b) Minimum Side Yard (feet): 15
  - c) Minimum Side Yard of Corner Lots (feet): 30
  - d) Minimum Side Yard of allowable nonresidential use (feet): 30

- e) Minimum Rear Yard (feet): 25
  - f) Maximum Lot Coverage: 45%
- 5) Height of Structures
- a) Maximum Main Structure (feet) 40
  - b) Maximum Accessory Structure (feet) 20

E) *Additional Provisions*

- 1) A minimum separation of one hundred (100) feet between agricultural buildings and dwelling units on the same lot shall be maintained. Agricultural buildings for the purpose of this provision means those buildings used of the raising of crops and livestock or for the storage of agricultural equipment, supplies, or products.
- 2) A minimum setback of fifty (50) feet from the property line shall be provided for any agricultural building.
- 3) Non-Enclosed attached patio covers, although an addition to and part of the main structure, shall be exempt from the rear yard setback requirements above. Patio covers shall be allowed to extend into the rear setback no closer than ten (10) feet from the rear property line provided maximum lot coverage is not exceeded.

4.1.5.3 SINGLE FAMILY - 2 DISTRICT (SF-2)

A) *Purpose*

SF-2 is a single family residential district allowing detached houses on individual lots and requiring a minimum lot size of on half acre (1/2) acre, being 21,780 square feet.

B) *Permitted Uses*

- 1) Single family detached dwelling
- 2) Home based business or occupation within the single family detached dwelling
- 3) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 4) Public educational facility
- 5) Cemetery or mausoleum provided the principal or accessory structures are a minimum of 50 feet from a lot or property line
- 6) Churches and places of worship
- 7) Two (2) accessory uses customarily associated with a single family detached dwelling limited to parking garage, swimming pool, unlit tennis court, unlit sports court and hobby shed

C) *Conditional Uses*

- 1) Community or neighborhood swimming pool or recreational use provided the use and structures are a minimum of fifty (50) feet from a lot, yard or property line
- 2) Real estate model home
- 3) Privately owned educational and day care facility
- 4) Golf course or country club
- 5) Wind energy, utility or telecommunication tower, to be used for non-commercial purpose, provided such structure is no less than fifty (50) feet from a lot or property line and in every case no less than its height from the property line
- 6) Franchise holding facilities and utilities holding a franchise under the City of Lavon
- 7) Temporary concrete batch plants limited to no more than six (6) months however the limit on the temporary permit may be extended to one (1) additional six (6) month period, by the Building Official as necessary to complete construction for the project under which the temporary permit was granted

D) *Area Requirements*

Following are the area requirements and development standards for the Single Family-2 District.

- 1) Density – Maximum: two units per gross acre
- 2) Lot Size
  - a) Minimum Lot Area: 1/2 acre (21,780 square feet)
  - b) Minimum Lot Width (feet): 90
  - c) Minimum Lot width of corner Lots (feet): 115
  - d) Minimum Lot Depth (feet): 200
- 3) Dwelling Regulations
  - a) Minimum Square Footage: 1,800
  - b) Maximum number of single-family detached dwellings units per lot: one
- 4) Yard Requirements – Main Structures- Setbacks
  - a) Minimum Front Yard (feet): 30
  - b) Minimum Side Yard (feet): 15
  - c) Minimum Side Yard of Corner Lots (feet): 30
  - d) Minimum Side Yard of allowable nonresidential use (feet): 30

- e) Minimum Rear Yard (feet): 25
  - f) Maximum Lot Coverage: 45%
- 5) Height of Structure
- a) Maximum Main Structure (feet) 40
  - b) Maximum Accessory Structure (feet) 20

E) *Additional Provisions:*

Non-enclosed attached patio covers, although an addition to and part of the main structure, shall be exempt from the rear yard setback requirements above. Patio covers shall be allowed to extend into the rear setback no closer than ten (10) feet from the rear property line provided maximum lot coverage is not exceeded.

4.1.5.4 SINGLE FAMILY - 4 DISTRICT (SF-4)

A) *Purpose*

SF- 4 is a single family residential district allowing detached houses on individual lots and requiring a minimum lot size of ten thousand (10,000) square feet.

B) *Permitted Uses*

- 1) Single family detached dwelling.
- 2) Home based business or occupation within the single family detached dwelling
- 3) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 4) Public educational facility
- 5) Churches and places of worship
- 6) One (1) accessory use customarily associated with a single family detached and limited to parking garage, swimming pool, unlit tennis court, unlit sports court and hobby shed

C) *Conditional Uses*

- 1) Community or neighborhood swimming pool or recreational use provided the use and structures are a minimum of twenty (20) feet from a lot, yard or property line
- 2) Real estate model home
- 3) Privately owned educational and day care facility provided minimum lot shall be one acre (43,506 square feet)
- 4) Golf course or country club

- 5) Wind energy, utility or telecommunication tower, to be used for non-commercial purpose, provided such structure is no less than fifty (50) feet from a lot or property line and in every case no less than its height from a lot or property line
- 6) Franchise holding facilities and utilities holding a franchise under the authorization of the City of Lavon
- 7) Temporary concrete batch plants limited to no more than six (6) months however the limit on the temporary permit may be extended one (1) additional (6) six month period, by the Building Official as necessary to complete construction for the project under which the temporary permit was granted; the location of the batch plant is subject to the approval of the Building Official

D) *Area Requirements*

Following are the yard, lot and space requirements for the Single Family-4 District. (SF-4)

1. Density - Maximum: four (4) units per gross acre
2. Lot Size
  - a) Minimum Lot Area :10,000 square feet
  - b) Minimum Lot Width: (feet) 80
  - c) Minimum Lot width of Corner Lots (feet): 100
  - d) Minimum Lot Depth (feet): 125
3. Dwelling Regulations
  - a) Minimum Square Footage: 1,500
  - b) Maximum number of single-family detached dwellings units per lot: one
4. Yard Requirements – Main Structures
  - a) Minimum Front Yard (feet): 25
  - b) Minimum Side Yard (feet): 10
  - c) Minimum Side Yard of Corner Lots (feet): 25
  - d) Minimum Side Yard of allowable nonresidential use (feet): 30
  - e) Minimum Rear Yard (feet): 25
  - f) Minimum Rear Yard Double Front Lots (feet): 45
  - g) Maximum Lot Coverage: 45%
5. Height of Structures
  - a) Maximum Main Structure (feet): 40
  - b) Maximum Accessory Structure (feet): 15

E) *Additional Provisions*

Patio covers shall be allowed to extend into the rear setback no closer than ten (10) feet from the rear property line provided maximum lot coverage is not exceeded.

## **CHAPTER 6 – REGULATIONS APPLICABLE TO MIXED USE AND NON- RESIDENTIAL DISTRICTS**

### **4.1.6.1 RETAIL DISTRICT (R)**

A) *Purpose*

The Retail District (R) is to establish business areas for sales tax generating retail, business and personal service enterprises. Site planning controls shall limit sales and services to the interior of building and structures. Where exterior sales and services are necessary, buffering and landscaping shall be required adjacent to residential uses and zones.

B) *Permitted Uses*

The following are permitted when such use is conducted entirely within the interior of a building. A permitted use does not include a use when it is identified as a conditional use herein.

- 1) Business, professional and technical service and sales
- 2) Financial institution, insurance, real estate
- 3) Medical, pharmacy and State licensed health services
- 4) Personal service, and service for home and residence
- 5) Privately owned educational and day care facility
- 6) Retail sales in individual buildings or in planned centers of retail users
- 7) Restaurant
- 8) Federal, State or Local governmental use

C) *Conditional Uses*

- 1) Automobile fueling and gasoline filling station
- 2) Automobile service establishment
- 3) Car wash
- 4) Outdoor, drive-in or drive-through sales or service activity
- 5) Amusement, theater, exercise and sports establishment
- 6) Bakery/confectionery retail establishment
- 7) Building materials sales
- 8) Church or place of worship at free standing or individual sites



- 9) Dry-cleaning retail establishments with no processing on site
- 10) Hotel
- 11) Landscaping material sales
- 12) Merchandise rental
- 13) Pet grooming and care services
- 14) Veterinarian services
- 15) Vapor smoking services
- 16) Retail storage service facilities
- 17) Establishments that derive more than seventy-five (75) percent of its revenue from the sale of alcoholic beverages
- 18) Private clubs and organizations (indoor)
- 19) Second hand/used goods/pawn shop provided the lot on which a similar establishment is located is more than one thousand (1,000) feet from the location of the proposed use; the one thousand (1,000) foot distance shall be measured between the lots and along the public street
- 20) Cash and retail lending service establishment provided the lot on which a similar establishment is located is more than one thousand (1,000) feet from the location of the proposed use; the one thousand (1,000) foot distance shall be measured between the lots and along the public street
- 21) Tattoo service and similar body artwork establishment provided the lot on which a similar establishment is located is more than one thousand (1,000) feet from the location of the proposed use; the one thousand (1,000) foot distance shall be measured between the lots and along the public street

*D) Area Requirements*

- 1) Minimum Lot Area: 1 acre (43,560 square feet)
- 2) Lot Dimensions: none
- 3) Minimum Building Size: 2,500 square feet
- 4) Maximum Building Size: 20,000 square feet
- 5) Yard Requirements – Main Structures
  - a) Minimum Front Yard (feet): 25
  - b) Minimum Side Yard (feet): 7 except adjoining residential where the side yard shall be (feet) 15
  - c) Minimum Side Yard of Corner Lots (feet): 25
  - d) Minimum Rear Yard (feet) none except adjoining residential where the rear yard shall be (feet): 15

- e) Minimum Rear Yard Double Front Lots (feet): 25
- f) Maximum Lot Coverage: 80%
- 6) Height of Structures
  - a) Maximum Main Structure (feet): 45
  - b) Maximum Accessory Structure (feet): 14

E) *Building Placement, Orientation and Site Design*

- 1) No service canopies, drive-thru lanes, service doors for auto or similar service shall face the public street nor a residential lot or residential zoning district.
- 2) All utility lines (power, phone, cable, etc.) shall be placed underground.
- 3) Sidewalks (eight (8) foot minimum width) shall be provided along lot lines adjoining the public streets. Interior walkways are required and shall be connected to adjoining public sidewalks.
- 4) Marked pedestrian crosswalks shall be provided at all public street intersections adjoining the development.
- 5) Architectural and/or landscape elements shall be designed to provide shade on the south and west exposures to protect patrons in plazas, patios and other public spaces.
- 6) Shopping cart areas, within the tenant space shall be screened from view with decorative screening or landscaping as high as the carts.
- 7) Exterior display of retail sales, vending, amusements and seasonal sales shall be pre-planned and proposed locations for such activities shall be depicted on the site plan for approval by City.
- 8) Accessory structures such as trash enclosures, utility services, telecommunication equipment and heating/cooling systems shall be screened from view of neighboring buildings, sites and roadways. Materials to screen around these systems shall match or compliment adjacent building materials. Gates shall not allow for view of the contents of the enclosure.
- 9) Highly visible detention basins for storm drainage shall be contoured, use curvilinear design forms and shall be aesthetically landscaped and maintained.
- 10) All sides of a building shall be designed with consistent architectural and façade elements. Roofline silhouettes shall be broken up through the use of large cornices, changes in parapet heights, or other techniques such as awnings, bulb-outs, and reliefs. At least fifty percent (50%) of the total façade shall use features such as windows, awnings, entryways, columns, architectural relief to discourage long expanses of bare wall. All exterior metals and plastics (vents,

flashings, and gutters) shall be screened from view, painted or treated to blend in with the adjacent surrounding materials.

- 11) All glass, plastic or other transparent materials shall be treated to eliminate reflective glare.
- 12) Retail and Commercial Uses adjacent to a residential use or zone shall provide a masonry wall or dense landscaped screen along the lot line from the front yard through the rear yard.

#### 4.1.6.2 MAIN STREET DISTRICT (M)

##### A) *Purpose*

Main Street District (M) recognizes the existence of established residential uses along Main Street in Lavon; however, as Lavon grows there is recognized a need and desire to develop a traditional downtown for the City. The traditional Main Street envisions a mixture of uses that a traditional downtown includes; residential, commercial, governmental, churches. Development regulations will encourage low density design, walkability, retention of historical structures, flexibility of land use with control of site design and the form of the structure. Screening shall be required of all commercial uses adjoining residential structures.

##### B) *Permitted Uses*

The following are permitted when such use is conducted entirely within the interior of a building, except when identified as conditional use herein.

- 1) Business, professional and technical service and sales
- 2) Financial institution, insurance, real estate
- 3) Medical, pharmacy and State licensed health services
- 4) Personal service and services for home and residence
- 5) Day care for child and adult and educational services
- 6) Retail sales as individual enterprises within individual and separate structures
- 7) Planned centers of more than one individual retail uses
- 8) Restaurant
- 9) Single family detached dwelling
- 10) Townhouse
- 11) Home based business within single family detached dwelling
- 12) Federal, State or Local governmental use
- 13) Vertically mixed use retail and multi-family residential

##### C) *Conditional Uses*

- 1) An outdoor, drive-in or drive-through sales or service activity including rear yard patios requiring limited service hours and limited noise/entertainment levels and limited hours
- 2) Amusement, theater, exercise and sports establishment
- 3) Bakery/confectionery retail establishment
- 4) Church or place of worship at free standing or individual site
- 5) Dry-cleaning retail establishment with no processing on site
- 6) Pet grooming and care services
- 7) Veterinarian services
- 8) Vapor smoking services

D) *Area Requirements*

- 1) Lot Size
  - a) Minimum Lot Area: 1 acre (43,560 square feet)
  - b) Minimum Lot Width: none
- 2) Minimum Building Size: 1,500 square feet
- 3) Maximum Building Size: 7,500 square feet
- 4) Yard Requirements – Main Structures
  - a) Minimum Front Yard (feet): 12
  - b) Maximum Front Yard (feet): 20
  - c) Minimum Side Yard (feet): 7 except adjoining residential where the side yard shall be (feet) 15
  - d) Minimum Front Yard (feet): 12
  - e) Maximum Side Yard of Corner Lots (feet): 20
  - f) Minimum Rear Yard (feet): none except adjoining residential where the rear yard shall be (feet) 15
  - g) Minimum Rear Yard Double Front Lots (feet): 45
  - h) Maximum Lot Coverage: 40%
- 5) Height of Structures
  - a) Maximum Main Structure (feet): 36
  - b) Maximum Accessory Structure (feet): 14

E) *Building Placement, Orientation and Site Design*

- 1) No service canopies, drive-thru lanes, service doors for auto or similar service shall face the public street nor face a residential use or zoning district.

- 2) All utility lines (power, phone, cable, etc.) shall be placed underground.
- 3) Sidewalks (twelve (12) foot minimum width) shall be provided along the lot lines adjoining public streets. Interior walkways shall be required and shall connect to existing surrounding and adjoining public sidewalks as well as locations of future required public sidewalks.
- 4) Marked pedestrian crosswalks shall be provided at all public street intersections adjoining the development.
- 5) Architectural and/or landscape elements shall be designed to provide shade on the south and west exposures to protect patrons in plazas, patios and other public spaces.
- 6) Shopping cart areas, within the tenant space shall be screened from view with decorative screening or landscaping as high as the carts.
- 7) Exterior display of retail sales, vending, amusements and seasonal sales shall be pre-planned and proposed locations for such activities shall be depicted on the site plan for approval by City.
- 8) Accessory structures such as trash enclosures, utility services, telecommunication equipment and heating/cooling systems shall be screened from view of neighboring buildings, sites and roadways. Materials to screen around these systems shall match or compliment adjacent building materials. Gates shall not allow for view of the contents of the enclosure.
- 9) Highly visible detention basins for storm drainage shall be contoured with curvilinear design forms, aesthetically landscaped and maintained.
- 10) All sides of the building shall be designed with consistent architectural and façade elements. Roofline silhouettes shall be broken up through the use of large cornices, changes in parapet heights, or other techniques such as awnings, bulb-outs, and reliefs. At least fifty (50) percent of the total façade shall use features such as windows, awnings, entryways, columns, or other architectural relief to discourage long expanses of bare wall. All exterior metals and plastics (vents, flashings, and gutters) shall be screened from view, painted or treated.
- 11) All glass, plastic or other transparent materials shall be treated to eliminate reflective glare.
- 12) Retail and Commercial Uses adjacent to a residential use or zone shall provide a masonry wall or dense landscaped screen along the lot line from the front yard through the rear yard.

#### 4.1.6.3 BUSINESS PARK DISTRICT (B)

A) *Purpose*

The purpose of this District, Business Park (B) is to plan for a wide range of information technology, research and development, manufacturing, wholesale, warehouse and transportation uses that will generate job opportunities for the citizens of the City. Regulations are set in place to allow for manufacturing uses that meet guidelines to reduce the impact on adjacent non-manufacturing development from potentially incompatible uses and conditions.

B) *Permitted Uses*

The following are permitted when such use is conducted entirely within the interior of a building which is a minimum of fifteen thousand (15,000) square feet.

- 1) Appliance, instrument, controller, device, parts, and vehicle manufacturing
- 2) Automobile and Truck Repairs and Service
- 3) Die, tooling, equipment and machinery manufacturing
- 4) Federal, State or City owned or controlled facilities, utilities, parks, playgrounds, recreational facilities, open space preserves and municipal uses
- 5) Information assembly, broadcasting, carriers, distribution, publication, production, telecommunication, information sellers, data processing
- 6) Materials bending, cutting, machining, molding, and welding
- 7) Parts assembly, materials sorting previously manufactured
- 8) Packaging of parts and materials previously manufactured
- 9) Professional, scientific and technical services
- 10) Storage – Self Service
- 11) Wholesale enterprises without materials storage and distribution
- 12) Warehousing and distribution facilities

C) *Conditional Uses*

Conditional uses include the following uses when such uses are conducted entirely within the interior of a building. Equipment necessary to the manufacturing process outside of the building shall be screened from the public street and adjoining property. Building shall be minimum of fifteen thousand (15,000) square feet.

- 1) Manufacturing processes that bake, blend, coat, dip, draw, distill, extract, extrude, heat, mill, refine, reclaim, recycle, roll and any process not identified, provided any such process is conducted entirely within a building and provided no emission or contaminants shall leave the property. Such process shall meet all permitting

requirements of the U.S. Environmental Protection Agency, Texas Commission Environmental Quality and similar regulating Federal and State Agencies. Waste handling, disposal and pretreatment studies and certifications shall be required for all products, by-products and waste materials produced.

The emission of particulate matter from all sources shall not exceed the level specified by the Texas Commission on Environmental Quality or regulations specified by the Texas Department of Health. Proof that emissions comply with applicable permitting requirements shall be provided to City.

- 2) Storage of all flammable liquids and materials.
- 3) Open Storage and open processing operations, including on-site sand and gravel processing and storage, sand blasting or similar uses provided said particulate matter shall not leave the property nor be transported across the boundary property line of the tract on which the use is located.

*D) Area Requirements*

- 1) Lot and Building Size
  - a) Minimum Lot Area: two (2) acres
  - b) Minimum Lot Width: none
  - c) Minimum Building Size: 15,000 square feet
  - d) Maximum Building Size: no requirement
- 2) Yard Requirements
  - a) Minimum Front Yard (feet) 30
  - b) Minimum Side Yard (feet) 20 except adjoining residential where the side yard shall be (feet) 50
  - c) Minimum Side Yard of Corner Lots (feet) 30
  - d) Minimum Rear Yard (feet) none except adjoining residential where the rear yard shall be (feet) 50
  - e) Maximum Lot Coverage 60%
- 3) Height of Structures
  - a) Maximum Main Structure (feet): 65
  - b) Maximum Accessory Structure (feet): 36

*E) Site Design, Building Placement, Orientation and Process Controls*

- 1) All buildings, principal and accessory, vertical surfaces, except for windows, doors, and other normal opening, shall be 100% masonry (brick, stone, stucco, concrete tilt wall or split faced concrete block).

- 2) Accessory structures including trash enclosures, utility services, telecommunication equipment, heating and cooling systems, assembly yards, loading areas shall be screened around these systems. Materials to screen around these systems shall match or compliment adjacent principal building materials. Gates shall not allow for view of the contents of building, structures and yards within enclosure.
- 3) All sides of the building shall be designed with consistent architectural and façade elements. Building shall incorporate wall recessions or projections at a minimum of five (5) feet in depth. These projections or recessions shall cover at least twenty-five (25) percent of the total building façade along each side of the building.
- 4) All exterior metals and plastics (vents, flashings, and gutters) shall be screened from view, painted or treated to blend in with the adjacent surrounding materials.
- 5) No service canopies, drive-thru lanes, service doors for loading or similar service facilities shall face the public street nor a residential lot or residential zoning district.
- 6) All utility lines (power, phone, cable, etc.) shall be placed underground.
- 7) Sidewalks (eight (8) foot minimum width) shall be provided along the lot lines adjoining a public streets. Interior walkways are required and shall connect to existing surrounding and adjoining public sidewalks as well as locations for future required public sidewalks.
- 8) Marked pedestrian crosswalks shall be provided at all public street intersections adjoining the development.
- 9) No exterior display of products or goods produced at the site shall be allowed.
- 10) Highly visible detention basins for storm drainage shall be contoured, use curvilinear design forms and shall be aesthetically landscaped and maintained.
- 11) All glass, plastic or other transparent materials shall be treated to eliminate reflective glare.
- 12) Uses adjacent a residential use or residential zone shall provide a masonry wall or dense landscaped screen along the lot line from the front yard through the rear yard.
- 13) All exterior lighting, designed for security, illumination, parking lot illumination or advertising shall be designed in such a manner as to ensure that it does not extend into adjacent residentially zoned property. Information shall be provided on a lighting plan,



for approval, which indicate the intensity of all exterior lighting fixtures and the footcandle level beyond the property. Lighting fixtures shall be designed to direct light down onto the site and away from neighboring property. Lighting shall be designed to include cut-off shielding to minimize light pollution on to adjoining property and not exceed 0.25 footcandle beyond the property line.

- 14) No use shall be located or operated which involves the emission of odorous matter from the source of the operation where the odorous matter exceeds the odor threshold at the boundary line or any point beyond the tract on which the operation is located. A plan report shall be provided to demonstrate that no odor shall leave the premise incorporating standards, methods and procedures specified by the American Society for Testing Materials (ASTMD 1391-57 entitled “Standard Method for Measuring Odor in Atmospheres”).
- 15) No use shall be permitted that creates earth borne vibration beyond the boundary property line of the source of operation.

#### 4.1.6.4 PLANNED DEVELOPMENT DISTRICT (PD)

##### A) *Purpose*

The (PD) Planned Development District is intended to provide for combining and mixing uses into integral land use units such as industrial parks, industrial, office and commercial centers; residential development with multiple or mixed housing types; or any appropriate combination of uses which may be planned, developed or operated as integral land use units, whether by a single owner or a combination of owners.

##### B) *Description*

After a public hearing has been convened and proper notice to all affected property owners has been made in accordance with this Subtitle and after a recommendation by the Planning and Zoning Commission has been submitted to the City Council, the City Council may authorize the creation of a (PD) Planned Development District as follows:

- 1) Planned Development – Single Family (PD-SF) comprised of residential developments on tracts of five (5) acres or more;
- 2) Planned Development – Mixed Use (PD-MU) comprised of mixed use development on tracts of five (5) acres or more;
- 3) Planned Development – Commercial (PD-C) comprised of commercial development on tracts of less than five (5) acres when a determination has been made by the Planning and Zoning Commission that the area to be rezoned cannot be rezoned to any other zoning district without creating the potential of adversely affecting the property that is the subject of the rezoning or adversely affecting

properties adjacent or in close proximity; or

- 4) Planned Development – Business (PD-B) comprised of business developments on tracts of less than five (5) acres when a determination has been made by the Planning and Zoning Commission that the area to be rezoned cannot be rezoned to any other zoning district without creating the potential of adversely affecting the property that is the subject of the rezoning or adversely affecting properties adjacent or in close proximity.

C) *Permitted Uses*

The uses to be permitted in any (PD) Planned Development District shall be enumerated in the ordinance which creates such district. Any proposed amendment to the uses permitted within a (PD) Planned Development District shall be submitted and processed in accordance with this Subtitle.

D) *Procedures*

- 1) The steps necessary to request creation of a (PD) Planned Development District shall be as follows:
- 2) Preapplication conference for presentation and discussion of a preliminary drawing in a form for a change of zoning with all required supporting materials.
- 3) Every (PD) Planned Development District approved under the provisions of this Subtitle shall be considered an amendment to the Zoning Ordinance and Zoning Map and applicable only to the property described in the legal description of the property;
- 4) In carrying out the development of a (PD) Planned Development District, compliance with the applicable development conditions and development schedule shall be required. Such conditions as are specified for the development of a (PD) Planned Development District shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be construed as conditions precedent to the granting of a Certificate of Occupancy by the City of Lavon.

E) *Pre-application Requirements*

- 1) Pre-application Conference: An applicant for a (PD) Planned Development District shall schedule a pre-application conference prior to the formal submission of the application materials. At the pre-application conference, the applicant shall provide a preliminary drawing, Concept Plan that includes, but is not limited to, the following:
  - a) A statement of completion of the Pre-Application Checklist requirements. The Pre-Application Checklist will be available from the City Secretary's office.

- b) Delineation of site boundaries;
- c) General site layout indicating relationship of the proposed land uses, parking, and street layouts(s);
- d) Proposed residential development densities;
- e) Approximate gross square footage of non-residential uses where applicable;
- f) Projected building heights;
- g) General topographic conditions;
- h) A table identifying the Zoning District and the associated Area Requirements to which the proposed Planned Development District (PD) is most closely aligned and to which the PD will conform unless otherwise identified; and
- i) Significant environmental features, including flood plains and water course; and delineation of approximate acreage for each land use specified.

In addition to the Concept Plan, the applicant shall provide proposed Development Guidelines outlining design requirements and characteristics of the Planned Development District (PD).

- 2) Comments: Based on the information provided by the applicant, initial comments concerning the merits of the proposed development and provide any other information necessary to aid the applicant in the preparation of the formal application.
- 3) Application Submission: Any person, group of persons, or Corporation having a proprietary interest in any property may file an application for a (PD) Planned Development District. Such application shall be submitted and processed in accordance with Lavon, Texas, Zoning Ordinance.
- 4) Formal Public Hearing: The Planning and Zoning Commission shall hold an advertised public hearing in accordance with the procedures set forth herein. The Planning and Zoning Commission shall make its recommendation to the City Council in accordance with the standard procedures for a change in zoning classification in the City of Lavon. The Planning and Zoning Commission may recommend, and the City Council may approve the request for a (PD) Planned Development District as submitted or may make any modifications thereto as may be appropriate.
- 5) In approving an ordinance establishing the (PD) Planned Development District, the City Council shall, after recommendation of the Planning and Zoning Commission, specify such height density, site coverage, setback, landscaping, off-street parking and all other standards as are appropriate for the development which are

considered necessary to protect the health, safety, and general welfare, and to create a reasonable transition to, and protection from, property adjacent to the (PD) Planned Development District.

F) *Development Schedule*

- 1) If the applicant desires, or the Planning and Zoning Commission or the City Council requires, a development schedule shall be submitted indicating the approximate date on which construction is expected to begin and the rate of anticipated development to completion. The development schedule shall, if adopted by the City Council, become part of the ordinance creating such (PD) Planned Development District, and shall be adhered to by the owner, developer, and successors in interest.
- 2) If in the opinion of the Planning and Zoning Commission and /or City Council the owner or owners of the property are failing or have failed to meet the approved schedule, the Planning and Zoning Commission and/or City Council may initiate proceeding to amend the ordinance of the (PD) Planned Development District, or remove all or part of the (PD) Planned Development District from the Official Zoning Map and place the area involved in another appropriate zoning district. Such action shall occur in accordance with this Subtitle. Upon the recommendation of the Planning and Zoning Commission, and for good cause shown by the owner or developer, the City Council may extend the development schedule or adopt such new development schedule as may be indicated by the facts and conditions of the case.

G) *Amendment to (PD) Planned Development District*

- 1) Any major amendment, supplement, deletion or modification to the (PD) Planned Development District may be granted upon application by any person, group of persons or corporation having a proprietary interest herein. Any application for such amendment, supplement, deletion or modification shall contain the information specified in this Subtitle and shall be processed in accordance with the procedures set forth in this Subtitle.
- 2) The Mayor or designee may authorize minor amendments that:
  - a) Do not alter the basic relationship of the proposed development to adjacent property;
  - b) Do not alter the permitted uses;
  - c) Do not increase the maximum density, floor area, height, or site coverage;
  - d) Do not decrease the amount of required off-street parking; and
  - e) Do not reduce the required minimum yards or setbacks.

- 3) An applicant may appeal the decision of the Mayor or Designee to the Planning and Zoning Commission for review and decision as to whether a formal amendment to the (PD) Planned Development District shall be required.

H) *Coordination with Subdivision Ordinance*

- 1) It is the intent of this section that subdivision review under the subdivision regulation of the City of Lavon is carried out simultaneously with the review of a (PD) Planned Development District under the provisions of this Subtitle.
- 2) Both this Subtitle and the Lavon, Texas Subdivision Regulations contain regulations which apply to the design of a Planned Development District, including such matters as streets, utilities, and open spaces. In any (PD) Planned Development District for which the provision of the two (2) ordinances are in conflict, the Mayor or Designee shall submit a recommendation to the Planning and Zoning Commission, which shall determine which standard shall prevail. Appeal from such decision shall be in accordance with this Subtitle.

## **CHAPTER 7 – SITE PLAN REQUIREMENTS**

### **4.1.7.1 PURPOSE**

The purpose of this Section is to regulate the manner in which land in the City of Lavon is used and developed, minimize adverse effects on surrounding property or the general public, protection from fire, protection of adjacent uses from obstructions to light, air and visibility plus provision of adequate storm water drainage facilities, transportation, water and sanitary sewage facilities.

### **4.1.7.2 SITE PLAN APPLICATION AND APPROVAL**

- A) A site plan application drawn to scale and approval of such site plan shall be required prior to the issuance of a building permit for a building other than construction of one (1) single family detached dwelling.
- B) The City Council shall consider approval of the site plan after review by the Zoning Administrator and receipt of recommendations from the Planning and Zoning Commission.

### **4.1.7.3 SITE PLAN REQUIREMENTS**

Each site plan drawing submitted with an application for review and approval shall contain the following information:

- A) Project Name.
- B) Vicinity Map at a scale of less than 1”:1,000’.
- C) Scale of the site plan drawing shall be no less than 1”:50’.
- D) North Arrow.

- E) Date.
- F) Aerial Photography upon which the proposed development features shall be placed.
- G) Public Street Names and locations for all existing and proposed streets right of ways, within or on the boundary of the proposed development, pavement widths, sidewalks and bikeways.
- H) Lot layout with dimensions for all lot lines, all yards and building site(s).
- I) Zoning designations of proposed development and all adjoining lots and development.
- J) Location of all existing and proposed fences, structures, and buildings on the development site as well as within two hundred (200) feet of the proposed site.
- K) Location and sizes of all existing and proposed easements for public utilities in and adjacent to the proposed development including:
  - 1) Water lines and diameter, fire hydrants, connections to water.
  - 2) Sanitary sewer lines, diameters, manholes, connections to City Sewer Line.
  - 3) Storm water detention/retention facilities, outlets and inlets with pre and post detention facilities for five (5) to one-hundred (100) year storms in five (5) year increments.
  - 4) Electric and gas facilities and easements.
  - 5) Telecommunication facilities and easements.
- L) Show existing land topography at contour interval of not more than two (2) feet, floodplains and proposed grading and changes to topography.
- M) Proposed open space reserves, park lands and recreation lands.
- N) Proposed location of all proposed parking and loading areas and parking and loading spaces, ingress and egress on the site, fire lanes, required site triangles, curb radius and on-site circulation. A loading space shall be not less than twelve (12) feet by fifty (50) feet with a vertical clearance of at least fourteen (14) feet. The exterior loading space shall be located to the rear or side of the principal use and not within the front yard or required side yard. A minimum ten (10) foot screening wall of masonry or dense landscaping shall be required to screen views of loading docks and loading spaces from any public right of way or adjoining residential zone or residentially used property.
- O) Location of existing landscaping features including, but not limited to existing trees greater than six inches (6"), creeks, wetlands, FEMA flood plains or ponds existing on the site and within fifty (50) feet of the site boundary. Also, any planned modifications of a natural landscape feature shall be noted.

- P) Landscape Plan showing detail of the location, type and size of the proposed landscaping and plantings as required by this Subtitle.
- Q) Architectural elevations for all buildings on all sides of the building proposed on the site. Plans to include material, color, texture, windows, doors and other design features of the building, including screening for mechanical equipment on roof or visible at site. Elevations shall be submitted drawn to scale of 1":10' or greater.
- R) Signage plans shall include signs drawn to scale, illumination type, height and construction (material and style) and location for all proposed and existing signs.
- S) Illumination plans shall be provided that show the illumination of the building and structures and the lighting levels within the site and within twenty (20) feet of the site.
- T) Parkland, Recreation Land and Open space Reserve Plan showing detail of the location, type and size of proposed development features, recreational features, access and egress, parking, trails and sidewalks and plantings as required by this Subtitle.
- U) Data to be provided include: Gross area of site, number of dwelling units, percent of lot coverage, percentage of lot covered by impervious surfaces, percent of landscaping, total number of parking and loading spaces.

#### 4.1.7.4 CRITERIA FOR APPROVAL

- A) All applicable City of Lavon Comprehensive Master Plan and Ordinance requirements shall have been met as a condition of site plan approval.
- B) All applicable Site Plan requirements of this Subtitle shall have been met as a condition of site plan approval.
- C) The adequate capacity of public or private facilities for water, sewer and access to, from and through the development shall be met as a condition of site plan approval. City reserves the right to deny approval of a site plan based upon insufficient capacity of any public facility or facilities.

#### 4.1.7.5 POWER TO AMEND PLANS

When considering approval of Site Plan, the Planning and Zoning Commission and/or City Council may include any or all of the following conditions as they deem necessary to achieve compliance with the intent and purpose of this Subtitle and the Comprehensive Master Plan.

- A) Require a traffic study
- B) Require modifications in the landscaping plan to ensure proper screening and aesthetic appearance.
- C) Require the modification or revision of the placement, design or remodeling of structures, signs, accessory buildings, etc., to be consistent with the standards.

- D) Require the type and placement of shielding of lights for outdoor circulation and parking.
- E) Require any new development which produces more than one thousand (1,000) vehicle trips per day to provide traffic mitigation by means of traffic signals, controls and turning islands, landscaping or any other means necessary to insure the viability, safety and integrity of the major street as a through corridor.
- F) Require pedestrian access, separate pedestrian access ways and sidewalks.
- G) Require open space reserves, park land, recreational lands and development or a fee in lieu of land dedication or park land development.

#### 4.1.7.6 TERM OF THE APPROVED SITE PLAN

An approved Site Plan shall be effective for a period of two (2) years from the date of approval by City Council; at the end the two (2) year period, the Site Plan shall automatically expire without the requirement of further action by the City unless the development has received a Certificate of Occupancy.

## **CHAPTER 8 - OFF-STREET PARKING AND LOADING REGULATIONS**

#### 4.1.8.1 PURPOSE.

For the safe use of public streets and roads, all parking and loading of automobiles, trucks and other motorized vehicles shall be off of the public right of way, public street and public roads unless a City permit has been authorized for on street parking.

#### 4.1.8.2 OFF-STREET PARKING SITE DESIGN REQUIREMENTS

- A) No more than two (2) rows of parking with a combined maximum of sixty (60) feet in width shall be allowed for nonresidential uses between the principal building or use and the front yard. Notwithstanding the foregoing, in the Main Street Zoning District all parking shall be to the side and rear of the principal building.
- B) Parking shall be primarily to the side and rear of the principal use and shall not be within the front yard or the side yard.
- C) Cross access easements shall be required of retail developments to adjoining retail or commercial zoned areas to ensure cross access to future median breaks of public highways and streets and to reduce the number of needed curb cuts for driveways.
- D) Shared parking agreements shall be required at final platting where proposed shared parking is approved as a way to reduce parking space requirements otherwise required by this Subtitle or other City ordinance.
- E) Access/Ingress/Egress.



- 9) Driveways from a public street to the required parking space shall be constructed of reinforced concrete
- 10) Driveways serving all uses should be spaced a minimum of one hundred (100) feet from the intersection of a public street or as required by the Texas Department of Transportation on State maintained roads.
- 11) All ingress and egress driveways shall have a minimum turning radius of thirty (30) feet unless more is required for truck delivery.
- 12) Driveways shall maintain the required sight distance triangle at all perimeter entrances and exists.
- 13) Nonresidential development main entrances shall be located at the public street or road median breaks providing a left turn access to and from the site.
- 14) Cross access easements from adjoining commercial property shall be required.
- 15) Main entrance drives should connect to a “straightaway” aisle that does not dead end or require an immediate turn to approach the principal use.
- 16) Parking aisles intersecting with entrance drives shall be spaced at a minimum of twenty (20) feet from the property line to provide for smooth turning movements.
- 17) The standard required parking space shall be not less than one hundred sixty two (162) square feet – measuring approximately, in feet, nine (9) feet by eighteen (18) feet.
- 18) A compact car space shall be no less than one hundred twenty-eight square feet (128’) measuring approximately, eight (8) feet by sixteen (16) feet.
- 19) Bus or recreational vehicle parking shall not be less than six hundred (600) square feet measuring approximately ten (10) feet by fifty (50) feet.
- 20) The surface of the area of a residential off-street parking area shall be constructed of four (4) inches of reinforced concrete or one and one-half (1-1/2) inches of hot mix asphalt, cobble stones or bricks, on a stabilized base four (4) inches thick, or by special permission of the City Engineer or Director of Public Works, other suitable surfaces that complement the architectural style of the property shall be allowed.
- 21) Commercial parking areas and lots shall be constructed of six (6) inches of reinforced concrete.

F) Street/driveway intersection visibility/site triangles.

- 1) All site plans shall show the required site triangle on both sides of each proposed drive/street to the proposed principle use or proposed development with the grades, curb, elevations, proposed street/drive locations and all items (both natural and manmade) within the site triangle. The plan for the site triangle shall show no visibility restrictions either horizontal or vertical within the site triangle area.
- 2) No fence, wall, screen, sign face, tree or shrub, foliage, berm or other item either manmade or natural shall be maintained, erected or planted in the site triangle area; provided however, on non-residentially zoned lots, a mounting of a single pole for a sign not exceeding twelve (12) inches in diameter shall be allowed, provided every portion of the sign other than the pole has a minimum height clearance of nine (9) feet.
- 3) Vision clearance, at all intersections, shall be clear at elevations between twenty-four (24) inches and nine (9) feet above the top of the curb elevation within a triangle area formed by extending the two (2) curb lines from their point of intersection for the minimum distances listed below for the applicable intersection, and connecting these points with an imaginary line, thereby making triangle. If no curbs are proposed or exist, the triangle area shall be formed by extending the property lines from their point of intersection for a distance, as noted below and connecting these points with an imaginary line, thereby making a triangle as shown below.
  - a) Two (2) public streets – the minimum required distance along each curb, from the curbs’ point of intersection shall be thirty (30) feet, and the minimum required distance along each property line, from the point of intersection of the property lines , within a curb, shall be twenty (20) feet.
  - b) Public street intersection with a private driveway – the minimum required distance, along the curb, from the curb point of intersection with the driveway shall be fifteen (15) feet, and the minimum required distance along the property line from the property line intersection, on streets without a curb, shall be ten (10) feet.
  - c) Public street intersections with an alley - minimum required distance, along the curb, from the curb intersection shall be twenty-five (25) feet, and the minimum required distance along the property line, from the property line intersection, on streets without a curb, shall be 15 feet.
  - d) The required standards for both vertical and horizontal sight distance requirements set forth in the latest edition of AASHTO green book “policy on geometric design of highways and streets” for the construction of both public street intersections and private drive intersections shall be met unless otherwise approve by the city engineer. If in the opinion of the

city engineer, a proposed street or drive intersection may not meet these standards, additional engineering information exhibiting how the standards have been addressed may be required for submission and approval by the city engineer.

- G) Parking lots shall be adequately lit and shall include pedestrian amenities such as sidewalks and pedestrian ways perpendicular to the main building. Trash receptacles shall be provided. Grocery cart parking shall be placed in controlled areas throughout the parking lots when carts are provided.
- H) Minimum one (1) pedestrian walkway (minimum five (5) foot wide (beyond the bumper overhang) through the parking lot to the building shall be provided.
- I) Parking lots shall be screened from view along sidewalks and roadways through the combined use of free forming berms, low masonry walls and plantings.
- J) Trees shall be placed in islands, medians, and perimeter areas adjacent to the parking lots (excluding street trees).
- K) No landscaped area within the parking lot shall be less than one hundred (100) square feet.
- L) Landscape islands, medians, perimeter curbs and sidewalks shall contain an eighteen (18) inch wide concrete or decorative paver curb along the inside of the feature that abuts parking stalls to allow patrons to avoid treading over landscaping.

#### 4.1.8.3 OFF STREET PARKING REQUIREMENTS

- A) Auditorium or similar gathering assembly – one (1) parking space for every four (4) seats.
- B) Bank or Financial Institution – one (1) parking space for every three hundred (300) square feet of floor area.
- C) Cemetery or Mausoleum – cemetery parking requirement at a rate of 2.5 percent of the cemetery site dedicated to off street parking. For a cemetery gathering building, room or public structure the parking requirement shall be a minimum of one (1) parking space for each 300 (three hundred) square feet of building or structure space. The interior roadways (non-public streets and roadways) of the cemetery may act to meet the cemetery parking requirement except for the building parking space requirement which shall be at a rate of 300 per square feet.
- D) Church – one (1) parking space for every three hundred (300) square feet of floor area, except that for assembly areas one (1) space shall be provided for every four (4) seats in an assembly area.
- E) Civic Center – one (1) parking space for every three hundred (300) square feet of floor area, except that for assembly areas one (1) space shall be provided for every four (4) seats in an assembly area.

- F) Educational Facility – one (1) parking space per each employee plus one (1) parking space for every four (4) classrooms for elementary levels, plus one (1) parking space for every four (4) students for secondary and higher levels of education.
- G) General Office – one (1) parking space for every three hundred (300) square feet of floor space.
- H) Group Home – four (4) parking spaces.
- I) Home based bed and breakfast business – one (1) parking space for each sleeping room.
- J) Hospital or Medical/Health Care facility – one (1) parking for every two (2) patient beds plus one (1) parking space for every one and one half (1-1/2) employees.
- K) Hotels and Motels: one (1) parking space for each sleeping room plus one (1) parking space for every three hundred (300) square feet of meeting or commercial assembly floor area.
- L) Library – one (1) parking space for every four hundred (400) square feet of floor area.
- M) Manufacturer Home Park Development – two (2) parking spaces per single residential unit and one (1) community parking space within a community parking area for every two (2) residential units.
- N) Manufacturing and Assembly – one and one half (1-1/2) parking spaces for every one (1) employee for businesses with two (2) or more work shifts, one (1) parking space per employee for businesses with one (1) work shift.
- O) Medical Office or clinic – one (1) parking space for every two hundred (200) square feet of floor area.
- P) Multifamily Dwellings.
  - 1) One (1) parking space for each dwelling unit have two (2) or fewer bedrooms.
  - 2) Two (2) parking spaces for each dwelling unit have more than two (2) bedrooms.
  - 3) One (1) guest parking for every five (5) dwelling units.
  - 4) Recreational vehicle and utility vehicle storage area of one (1) space for every five (5) dwelling units.
- Q) Personal Services including spas, beauty and barber shops, one (1) parking space for every two hundred (200) square feet of floor area.
- R) Recreational, Amusement, Health Club, Country clubs, and similar membership uses – public or private:
  - 1) One (1) parking space for every two hundred (200) square feet of building floor area.

- 2) Two (2) parking spaces for every outside or inside game court.
  - 3) One (1) parking space for each four (4) seats of outdoor assembly bleachers or indoor seating.
  - 4) Seventy (70) spaces for every playing field used for league play.
  - 5) Two (2) parking spaces for every golf course green or driving range tee.
  - 6) Five (5) parking spaces for every bowling alley.
- S) Retail sales uses, including general merchandise and/or grocery store – one (1) parking space for every two hundred and fifty (250) square feet of building floor area.
- T) Restaurants – one (1) parking space for every three (3) seats with a minimum of eight (8) parking spaces provided and one and one-half (1-1/2) parking spaces per employee.
- U) Service providers to the general public other than listed in this Subtitle – one (1) parking space for every three hundred (300) square feet of building floor area.
- V) Single Dwelling Unit including a manufactured home – two (2) covered parking spaces for each dwelling unit located behind the front yard building line and not within the side yard.
- W) Warehousing/Distribution Center – one (1) parking space per each employee on one (1) shift and one and one half (1-1/2) parking spaces per employee for two (2) or more work shifts.
- 1) Mini-Warehouses, self-storage –one (1) parking space per employee and one (1) parking space for each three hundred (300) square feet of office and showroom space.
  - 2) Retail showroom/warehouse – one (1) parking space per employee and one (1) space for each five hundred (500) square feet of showroom space.
- X) Unclassified use- for uses not included above, one (1) parking space for each three hundred (300) square feet of floor area.

#### 4.1.8.4 OFF -STREET LOADING SITE DESIGN REQUIREMENTS

- A) Exterior loading space(s) shall be located to the rear or side of the principal use and not within the front yard or side yard. A minimum ten (10) foot screening wall of masonry or dense landscaping shall be required to screen views of loading docks and loading spaces from any public right of way or adjoining residential zone or residential use. If masonry is utilized said masonry shall match the masonry used on the principal building.
- B) Driveways from the public street to the loading space shall be constructed of reinforced concrete.

- C) Drive through service bays shall not be located adjacent to a residential zone or residential property.

#### 4.1.8.5 OFF-STREET LOADING SPACE REQUIREMENTS

- A) Amusement, Health Club and similar uses- one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of building space over twenty-five thousand (25,000) square feet.
- B) Auditorium or similar gathering assembly – one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of floor space over twenty-five thousand (25,000) square feet.
- C) Bank or similar financial institution – one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of floor space above twenty-five thousand (25,000) square feet.
- D) Cemetery or Mausoleum – one (1) loading space.
- E) Civic Center – one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of floor space above twenty-five thousand (25,000) square feet.
- F) Church – one (1) loading space.
- G) Educational – one supply loading space plus one additional loading space for each twenty-five thousand (25,000) square feet over twenty-five thousand (25,000) square feet. For bus loading –one (1) loading space for each bus scheduled at simultaneous loading and unloading times.
- H) General Office – one (1) loading space plus one additional loading space for each ten thousand (10,000) square feet of floor space above fifty thousand (50,000) square feet.
- I) Hospital or Medical/Health Care Facility – One (1) loading space plus one (1) additional loading space for each ten thousand (10,000) square feet of space above fifty thousand (50,000) square feet.
- J) Hotels - one loading space plus one additional loading space for each ten thousand (10,000) square feet of meeting space above twenty-five thousand (25,000) square feet.
- K) Library – one (1) loading space.
- L) Manufacturing and assembly – one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet over 25,000 square feet.
- M) Medical office or clinic – one (1) loading space plus one additional loading space for each ten thousand (10,000) square feet of space above fifty thousand (50,000) square feet.
- N) Multifamily Dwellings, one (1) loading space plus one additional loading space for every twenty-five (25) units over twenty-five (25) dwelling units.

- O) Retail – one (1) loading space plus one additional loading space for each twenty-five thousand (25,000) square feet of floor space over fifty-thousand (50,000) square feet.
- P) Restaurants – one (1) loading space.
- Q) Single Detached Dwelling- one (1) loading space, which is not located within the rear yard or within the side or front yard, shall be required for parking of any recreational vehicles other than a passenger automobile.
- R) Service uses (business and personal) other than those categorized above- one (1) loading space plus one (1) additional loading space for each twenty-five thousand (25,000) square feet of floor space over fifty thousand (50,000) square feet.
- S) Warehousing – one (1) loading space plus one additional loading space for each fifteen thousand (15,000) square feet over twenty-five thousand (25,000) square feet.
- T) Unclassified use – for uses not listed above, one (1) loading space plus one (1) additional loading space for each fifteen (15,000) square feet over twenty-five thousand (25,000) square feet.

## **CHAPTER 9 - LANDSCAPING REQUIREMENTS**

### **4.1.9.1 PURPOSE**

The purpose of these landscape requirements is to protect the public health, safety and welfare by requiring that new development be adaptive to the existing natural areas and sensitive to sustaining the existing tree canopy and Texas native landscape thereby reducing heat build-up, air pollution, soil erosion and reduction of the rate of storm water drainage as well as providing for the control of the density of development.

- A) Landscape Plan Requirements.
  - 1) As part of the Site Plan approval a landscape plan shall be prepared and submitted.
  - 2) The Landscape Plan shall be prepared by a person knowledgeable in Plan material usage, irrigation and landscape design (e.g. a landscape architect is recommended as well as an irrigation specialist).
  - 3) A minimum of twenty (20) percent of the property shall be landscaped and ten (10) percent of existing trees over six (6) inches shall be preserved.
  - 4) The landscape plan, drawn to a minimum scale of one (1) inch equals fifty (50) feet, shall provide, at a minimum, the following:
    - a) Property limits, topography of the site, north arrow, date and name (seal if applicable) of preparer.

- b) Location, size and species of all trees to be preserved indicating size measured at twenty four (24) inches above ground level, location size and species of Texas native landscape materials to be maintained.
- c) Location and spacing of all plants and landscaping materials to be proposed, including plants, paving, benches, screens, fountains, statues, earthen berms, ponds (include depth of water).
- d) Species of all plant materials to be proposed include common names as well as scientific names. Texas native plants species are preferred.
- e) Size of all plant materials at time of planting and size of plant at maturity. Texas native plant materials are preferred.
- f) Layout of irrigation, sprinkler or water systems including water source.
- g) Description of landscape maintenance requirements and responsibility for all landscape features and plans.

B) Required Landscaping Standards.

- 1) Planting Strip. Along each public street, a twenty (20) foot wide landscaped planting strip shall be required in all Districts except in the Main Street District where the planting strip shall be ten (10) feet wide. The planting strip excludes driveways and access ways at points of ingress and egress to and from a property. The planting strip may be in the front yard. The planting strip may include some or all of the sidewalk. The planting strip shall not be located within all or any portion of the public right of way.
- 2) Street Trees. For all development, a minimum of one (4) inch caliper, eight foot (8) height tree shall be required every twenty-five (25) linear feet of public street frontage within the landscaped planting strip.
- 3) For all single detached residential development lots, a minimum of one (1) tree shall be located in the front yard of each lot and one (1) tree in the rear yard of each lot.
- 4) For multi-family residential development, a minimum of one (1) tree shall be planted for each dwelling unit on the development property.
- 5) For development within the Retail, Main Street and Planned Commercial Districts a minimum of one (1) tree shall be planted for every fifteen hundred (1,500) square feet of floor area with the site.
- 6) For the Business Park District a minimum of two (1) trees shall be planted for every five thousand (5,000) square feet of floor area within the site.
- 7) Planting strips less than six (6) feet wide are prohibited.



- 8) Where landscaping is intended to provide a visual screen, the species, quantity, maturity (size), and spacing of the initial plantings shall be sufficient to provide a functional screen within a single growing season.
- 9) Planters shall be guarded from automobiles by raised curbs or wheel stops.
- 10) Vegetative matter shall cover seventy-five (75) percent of any landscape area.
- 11) Storm water detention facilities do not meet the landscape requirements.

## **CHAPTER 10 - USE REGULATIONS**

### **4.1.10.1 CONDITIONAL USE**

- A) The purpose of a Conditional Use Permit provides a means for developing certain uses in a manner in which the proposed use will be compatible with adjacent property and consistent with the character of the neighborhood.
- B) The uses listed in each district as “Conditional Use” are prohibited in the district unless and until a Conditional Use Permit is granted for such use by the City Council in accordance with the requirements and procedures set forth in this section. Conditional Use requirements as to number, area, location, duration or relationship to the neighborhood and adequate development standards and safeguards established for such use are intended to promote the health, safety and welfare of the neighborhood and the City.
- C) Each Conditional Use Permit shall be evaluated as to its probable effect on the adjacent property and the community welfare and may be approved or denied as the findings indicate appropriate in the discretion of the City Council.
- D) Conditional Use Permit Application. An application for a Conditional Use Permit shall be submitted to the Planning and Zoning Commission and shall include the following:
  - 1) A written description of the proposed use.
  - 2) A plan showing the location of the proposed use on the site.
  - 3) Any additional information required by the Zoning Administrator.
- E) Review by the Planning and Zoning Commission and the City Council of a Conditional Use Permit Application.
  - 1) The Planning and Zoning Commission shall hold a public hearing after proper advertisement and make a recommendation to the City Council.
  - 2) The City Council shall hold a public hearing and approve, approve with conditions, or deny the Conditional Use Permit based on the review criteria below

F) Conditional Use Permit Review Criteria. In evaluating a Conditional Use Permit application, the Planning and Zoning Commission and the City Council shall consider whether the proposed use:

- 1) Compliments or is compatible with the surrounding uses and community facilities;
- 2) Contributes to, enhances, or promotes the welfare of the area of request and adjacent properties;
- 3) Is not detrimental to the public health, safety, or general welfare;
- 4) Conforms in all other respects to all applicable zoning regulations and standards; and
- 5) Is in conformance with the Comprehensive Plan.

G) Additional Conditions on a Conditional Use Permit.

- 1) As a condition of approval, the Planning and Zoning Commission and City Council may impose reasonable conditions upon the Conditional Use Permit consistent with the Comprehensive Plan, other stated development goals and objectives of the City and the requirements of other City regulations.
- 2) Such conditions may include, but are not limited to the location, health, safety, arrangement, operation, duration, traffic, parking, and type and manner of construction of any use for which a Conditional Use Permit is requested.

H) Effect of Conditional Use Permit.

- 1) The granting of a Conditional Use Permit has no effect on the uses permitted by right and does not waive the regulations of the underlying zoning district.
- 2) A Conditional Use Permit runs with the land; therefore, a new owner is not required to reapply for a Conditional Use Permit unless a time limit that has been established terminates.

I) Conditional Use Permit and the Zoning Map.

- 1) When the City Council authorizes granting of a Conditional Use Permit, the zoning map shall be amended according to its legend to indicate that the affected area has conditional and limited uses.
- 2) The amendment is to indicate the appropriate zoning district for the approved use and shall be suffixed by a "C" designation.

#### 4.1.10.2 TEMPORARY USE

A) Temporary uses operating for less than ninety (90) days within a one (1) year time period shall obtain a Temporary Use Permit from the Zoning Administrator. Temporary Use Permits shall specify conditions of operation with the objective being to allow the use subject to conditions determined appropriate to protect the public health, safety, and welfare.

- B) Temporary Use shall include short-term or seasonal uses that would not be appropriate on a permanent basis. The following uses and activities shall be considered temporary uses and no other temporary uses shall be allowed:
- 1) Fundraising Activities by Not-for-Profit Agencies. Fundraising or Non-commercial events for nonprofit educational, community service or religious organizations where the public is invited to participate in the activities and which last longer than forty-eight (48) consecutive hours.
  - 2) Special and Seasonal Sales Events. Significant commercial activities lasting not longer than ninety (90) consecutive days and which are intended to sell, lease, rent or promote specific merchandise, services or product lines, including but not limited to warehouse sales, tent sales, trade shows, flea markets, farmer's markets, Christmas tree lot sales, product demonstrations or parking lot sales of food, art work or other goods.
  - 3) Entertainment or Amusement Events. Short-term cultural and entertainment events including public or private events lasting not longer than ninety (90) consecutive days and which are intended primarily for entertainment or amusement, such as concerts, plays or other theatrical productions, circuses, fairs, carnivals or festivals.
  - 4) Temporary Batch Plants in construction areas.
- C) Temporary Use Permit Applications. An application for a Temporary Use Permit shall be submitted to the Zoning Administrator at least ten (10) working days before the requested start date for a temporary use and shall include the following:
- 1) A written description of the proposed use or event, the duration of the use or event, the hours of operation, anticipated attendance, and any building or structures, signs or attention-attracting devices used in conjunction with the use or event.
  - 2) A written description of how the temporary use complies with the review criteria below.
  - 3) A plan showing the location of proposed structures, including onsite restrooms and trash receptacles, parking areas, activities, signs and attention attracting devices in relation to existing buildings, parking areas, streets and property lines.
  - 4) A letter from the property owner agreeing to the temporary use if the applicant is not the property owner.
  - 5) Any additional information required by the Zoning Administrator as he/she determines necessary to evaluate the permit request.
- D) Appeal of Denied Temporary Use Permit by the P&Z.

- 1) The Zoning Administrator shall make a determination whether to approve, approve with conditions, or deny the permit within five (5) working days after the date of submission of a complete application for a temporary use permit.
  - 2) Any applicant denied a permit by the Zoning Administrator shall be notified in writing of the reasons for the denial and of the opportunity to appeal to the Commission.
  - 3) A denial of a temporary use permit may be appealed to the Commission within ten (10) days of the Zoning Administrator's action. The appeal shall be made in writing to the City Secretary and a copy shall be provided to the Zoning Administrator.
- E) Review Criteria for Temporary Use Permits:
- 1) The temporary use must be compatible with the purpose and intent of this Subtitle.
  - 2) The temporary use shall not impair the normal, safe and effective operation of a permanent use on the same site or adjacent sites.
  - 3) The temporary use shall not endanger or be detrimental to the public health, safety or welfare, or injurious to property or improvements in the immediate vicinity of the temporary use, given the type of activity, its location on the site, and its relationship to parking and access points.
  - 4) The temporary use shall conform in all respects to all other applicable City regulations and standards.
- F) Restoration of Site. Upon cessation of the event or use, the site shall be returned to its previous condition, including the removal of all trash, debris, signage, attention-attracting devices or other evidence of the special event or use. The applicant shall be responsible for ensuring the restoration of the site.
- G) Hours of Operation and Duration: The hours of operation and duration of the temporary use shall be consistent with the intent of the event or use and compatible with the surrounding land uses and shall be established by the Zoning Administrator at the time of approval of the temporary use permit.
- H) Traffic Circulation: The temporary use shall not cause undue traffic congestion given anticipated attendance and the capacity of adjacent streets, intersections and traffic controls.
- I) Off-street Parking: Adequate off-street parking shall be provided for the temporary use, and it shall not create a parking shortage for any of the other existing uses on the site(s).
- J) Public Conveniences and Litter Control: Adequate onsite rest room facilities and litter control may be required as condition of the permit.

- K) The applicant shall provide a written guarantee that all litter generated by the event or use shall be removed at no expense to the City, and City may require applicant to provide a financial guarantee of compliance.
- L) Appearance and Nuisances: The temporary use shall be compatible in intensity, appearance and operation with surrounding land uses in the area, and it shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
- M) Signs: The Zoning Administrator shall review all signage. The Zoning Administrator may approve the temporary use of attention attracting devices that comply with the City's Sign regulations.
- N) Additional Conditions for Temporary Use Permits. The Zoning Administrator may establish additional conditions to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or buffering, guarantees for site restoration and cleanup following the temporary use and other conditions determined necessary for compliance with City's ordinances and the protection of public health, safety and welfare.

#### 4.1.10.3 CLASSIFICATION OF NEW AND UNLISTED USE

- A) Unlisted Uses: The uses permitted are classified on the basis of common operational characteristics and land use compatibility. Uses not specifically listed are hereby prohibited. However, additional new and unlisted uses may be permitted by the Commission, subject to City Council approval, if the use is similar to other uses listed in the same Zoning District.
- B) Conditions on New Land Uses: When considering requests for a new land use, the Commission shall consider the potential effects of the use on adjacent properties in terms of requirements for services, compatibility, visual impact, traffic generation, the extent to which the use is consistent with other uses allowed in the district, consistency with the comprehensive master plan and other issues they deem appropriate.
- C) Authorization of New Uses: If after public hearing, a new use is authorized by the Commission, a text amendment shall be sent to the City Council for public hearing and action.

#### 4.1.10.4 SPECIFIC USE

- A) The City Council may consider after a public hearing, proper notice to all parties affected and recommendations by the Commission to grant a specific use permit for a premises under consideration. In making its determination, the City Council shall consider the following whether such use is harmonious and adaptable to the building or structure and uses of abutting property and other property in the vicinity of the premises under consideration. In its discretion, City Council may impose requirements for the traffic, access, parking, ingress, egress, provisions

for drainage, protective screening and open space, heights of structures and compatibility of buildings or other requirements as it deems appropriate.

- B) In granting a specific use permit, the City Council may impose conditions which shall be complied with by the owner or grantee as a condition precedent to the issuance of a certificate of occupancy may be issued by the Zoning Administrator. The specific use permit shall be to the owner or grantee and is not transferrable with the lease or sale of the property, does not constitute zoning, nor does it run with the property. No specific use permit shall be granted unless approved by the City Council. The applicant shall be willing to accept and agree to be bound by and comply with the written requirements of the specific use permit, as attached to the site plan drawing or drawings.

#### 4.1.10.5 NON-CONFORMING USE

A lawful use of property existing at the time of the passage of this Subtitle, as amended that does not conform with the regulations of this Subtitle shall be deemed a “non-conforming use”, except that any residential use existing at the time of passage of this Subtitle shall be deemed a conforming use.

- A) If a non-conforming use of a property is discontinued and not occupied for more than (90) ninety days, the non-conforming use status of the property is automatically deemed to be discontinued and any future use of said property shall be in conformity with the provisions of this Zoning Ordinance.
- B) A non-conforming use of a building may be continued and may be changed to another non-conforming use of the same or more restricted classification. A non-conforming use existing in a portion of a building may be extended to other portions of the building provided that no structural alterations, except those required by law or ordinance, are made therein. Notwithstanding the foregoing, in the event that a non-conforming use of all or a portion of the building is changed to a non-conforming use of a more restricted classification in all or a portion of the building, such non-conforming use shall not later revert to a less restricted classification in any portion of the building for which the change to a more restricted classification was made.
- C) The non-conforming use shall not be continued in case of total destruction of the building by fire, wind or other cause. In the case of partial destruction, defined as destruction not exceeding fifty (50) percent of a building’s value, the Zoning Administrator shall issue a permit for reconstruction. If partial destruction is greater than fifty (50) percent, the City Council, in its discretion, may grant a permit for repair or reconstruction after conducting a public hearing at which the City Council considers the interests of the of the persons affected, the public welfare, the character of the area surrounding the non-conforming use, and the conservation and preservation of property.

## **CHAPTER 11 - BOARD OF ADJUSTMENT**

### 4.1.11.1 BOARD OF ADJUSTMENT

- A) The Board of Adjustment (Board) shall be established in accordance with the applicable Texas Municipal Zoning Authority.
- B) Each case before the Board must be heard by at least seventy five (75) percent of the members.
- C) The Board may:
  - 1) hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance.
  - 2) hear and decide special exceptions to the terms of this Ordinance.
  - 3) authorize in specific cases a variance from the terms of this Ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this Ordinance would result in unnecessary hardship, and so that the spirit of this Ordinance is observed and substantial justice is done. The hardship shall neither be self-imposed nor generally affecting all or most properties in the same zoning district.
  - 4) hear and decide other matters authorized by this Ordinance.
- D) In exercising its authority, the Board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision or determination, and for that purpose the Board has the same authority as the administrative official.