

ORDINANCE NO. 69-22

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAK RIDGE, TEXAS, REPEALING ORDINANCES 16-09, 21-09 AND 30-09 OF THE CITY OF OAK RIDGE, TEXAS, IN THEIR ENTIRETY; ESTABLISHING A NEW ORDINANCE RELATIVE TO THE REGULATION OF LAND USES AND ZONING; PROVIDING A PURPOSE; ESTABLISHING DEFINITIONS; PROVIDING FOR INTERPRETATION, PURPOSE AND CONFLICT; ESTABLISHING DISTRICTS; ADOPTING A ZONING MAP; ESTABLISHING BOUNDARIES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR USES BY SPECIAL PERMIT; ESTABLISHING DISTRICT REGULATIONS; PROVIDING FOR SPECIAL EXCEPTIONS; ESTABLISHING GENERAL REGULATIONS; ESTABLISHING PARKING REQUIREMENTS; PROVIDING FOR ACCESSORY USES AND BUILDINGS; REGULATING NONCONFORMING USES; ESTABLISHING A BOARD OF ADJUSTMENTS; PROVIDING FOR BOARD OF ADJUSTMENTS PROCEDURE AND AUTHORITY; ESTABLISHING PLATTING REQUIREMENTS; ADOPTING A PENALTY; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Oak Ridge, Texas (“City”) has authority under Ordinance 211 of the Local Government Code to regulate land uses; and

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

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OAK RIDGE, TEXAS:**

**Section 1. FINDINGS INCORPORATED**

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**Section 2. REPEAL AND ADOPTION**

Ordinance No. 16-09, 21-09 and 30-09 of the City of Oak Ridge, Texas, are hereby repealed in their entirety. A new Ordinance relative to zoning and land use is hereby adopted to read as follows:

**“ZONING AND DEVELOPMENT CODE****GENERAL PROVISIONS****1. Purpose**

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

**2. Definitions**

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

*Accessory Building.* A separate building devoted to an accessory use.

*Accessory Use.* A use subordinate to and incidental to the primary use of the main building or to the primary use of the premises.

*Alley.* Land dedicated to public use and devoted to secondary access to lots.

*Board.* The Board of Adjustment.

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

*Buildable Width.* The lot width remaining to be built upon after providing for side yards.

*Building.* Any structure built for use of persons or animals.

*District.* A part of the City wherein regulations of this Ordinance are uniform.

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

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

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

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

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

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

*Height of a Building.* The vertical distance from the grade to:

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

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

*HUD-Code Manufactured Home.* A structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections which, in the traveling mode, is eight (8) body feet or more in width, forty (40) body feet or more in length, or, when erected on site is three hundred and twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. S 3282.8(9) by the State of Texas.

*Indoor Amusement and Recreation Centers.* A for-profit enterprise providing for indoor recreational activities, services, amusements, and instruction. Uses include, but are not limited to, bowling alleys, billiard halls, ice or roller skating rinks, bingo parlors, amusement arcades, and/or practice areas.

*Living Unit.* The room or rooms occupied by a family. Each living unit must include a kitchen. No single-family dwelling shall contain more than one (1) living unit. No two-family dwelling shall contain more than two (2) living units.

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

*Lot Width.* The width of a lot at the front yard line.

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

*Main Building, Principal Building or Principal Structure.* The building occupied by the primary use.

*Masonry* means that form of construction composed of stone, brick, concrete, hollow clay tile, concrete tile or other similar building units or materials or combination of these materials, and including brick veneer.

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

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

*Multiple Dwelling.* A building that contains more than two living units.

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

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

*Premises.* Land together with any buildings or structures occupying it.

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

*Public Building.* Any building owned or used exclusively by the City, county, state or federal governments.

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

*Separate Tract.* A parcel of land or a group of contiguous parcels of land under one ownership on the effective date of this Ordinance.

*Side Yard.* The area from the front yard line to the rear yard line and from the main building to a side lot line.

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

*Single-Family Dwelling.* A building that contains only one living unit.

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

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

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

*Structure.* Anything built that requires a permanent location.

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

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

*Two-Family Dwelling.* A building that contains only two living units.

*Yard Width or Depth.* The shortest horizontal distance from a lot line to a main building.

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

### **3. Interpretation, Purpose, and Conflict**

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

### **4. Districts Established**

(a) Zoning districts and regulations as herein set forth are established. The City is divided into the following districts:

- (1) R Districts: Residential
- (2) C Districts: Commercial
- (3) A District: Agricultural
- (4) PD District: Mixed-Use

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

- (1) Residential
  - (A) R-S: Single-Family District.
  - (B) R-M: Multi-Family District.
  - (C) R-H: HUD-Code Manufactured Home District
- (2) Commercial District.
  - (A) C Commercial - General
  - (B) I: Industrial

(c) The boundaries of the current districts are shown on the "Zoning Map" which is hereby established and adopted in its entirety and made a part of this Ordinance by reference for all purposes in Exhibit A. The Zoning Map shall be on file in the City Secretary's office.

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

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

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

## **5. Effect of Ordinance**

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

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

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



## **6. Boundaries of Districts**

Where uncertainty exists with respect to the boundaries of the various Districts as shown on the Zoning Map, the following rules apply:

- (1) The District boundaries are street, alley and property lines, unless otherwise shown, and where the Districts designated on the Zoning Map are bounded are approximately by street, alley or property line, the street, alley or property line shall be construed to be the boundary of the District.
- (2) Where the District boundaries are otherwise indicated, and where the property has been or may be divided into blocks and lots, the District boundaries shall be construed to be property lines and where the Districts designated on the Zoning Map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the District, unless the boundaries are otherwise indicated on the map.
- (3) For property that has not been legally subdivided, the District boundary lines on the Zoning Map shall be determined by use of the scale appearing on the Zoning Map.
- (4) In the case of a District boundary line dividing a property into two parts, the District boundary line shall be construed to be the property line nearest the less restricted District.

## **7. Enforcement**

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

### ***SPECIAL PERMITS***

## **15. Uses Permitted by Special Permit**

- (a) Uses listed in subsection (b) of this section 15 may locate in certain districts under certain conditions by a special permit granted by the City Council. After receiving an application for the permit, the City Council shall hold a public hearing to determine the effect of the proposed use upon the neighborhood, character, traffic, public utilities, public health, public safety

and general welfare. The public hearing shall be upon notice and in accordance with state statutes and procedures set forth in this Ordinance regulating the rezoning of property.

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

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

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

(d) If the City Council fails to approve the proposed special permit, a new application for the proposed special permit shall not again be considered until after the expiration of one year from the date the proposed special permit was rejected; provided, however, that the application for special permit may be reconsidered prior to the expiration of one year if:

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

## **16. Purpose**

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

## **17. Single-Family District Regulations R-S**

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

- (1) Single-family dwellings. Any use of HUD-Code Manufactured Homes, temporary structures, trailers and/or mobile homes is prohibited.
- (2) Public facilities including parks, libraries, elementary and high schools and public buildings.
- (3) Private schools with a curriculum similar to public elementary and secondary schools.
- (4) Religious institutions.

- (5) Public utilities; however, wireless antennae must receive a special use permit to be located within this district.
  - (6) Fire station, police station, artesian well, pumping station, lake, boat docks, boathouse, water supply reservoir, filter bed, water tank, tower or stand pipe.
  - (7) Railroad right-of-way, railroad tracks, bridges, water tanks, signals and other railroad appurtenances, but not including railroad yards, classification tracks, storage tracks, passenger station, freight station, coaling facilities, fuel oil tanks or roadhouses.
  - (8) Electrical facilities and electrical energy facilities, transformers, relay and substations, poles, wires and electrical transmission and/or distribution appurtenances, but not including office building or storage facilities.
  - (9) Transitional uses, as may be authorized by the Board via a special exception.
  - (10) Two-family dwellings, provided that not less than one-half of the block frontage of that side of the block in which the two-family dwelling is proposed or of the block frontage directly opposite thereto is, at the time of request for a building permit, comprised of lots used for two-family, multiple-family, commercial and/or institutional purposes.
  - (11) Two-family dwellings by special permit as provided in section 15.
  - (12) Nursery, pre-kindergarten, kindergarten, play, special and other private schools containing space for no more than 20 children by special permit as provided in section 15.
  - (13) Convalescent or rest homes by special permit as provided in section 15.
  - (14) Home occupations, as set forth herein.
- (b) *Height regulations.* No building shall exceed 35 feet or 2 ½ stories in height.
- (c) *Area regulations.*
- (1) Size of yards.

- (A) *Front yard.* There shall be a front yard having a depth of not less than 40 feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets. The maximum allowable driveway width shall not exceed (22) feet.
  - (B) *Double frontage lots.* Where lots have double frontage running through from one street to another, the portion of the front yard running parallel to the frontage road running perpendicular to the front door may be fenced within the 40 feet front yard setback.
  - (C) *Side yard and rear yard.* No structure or fence shall be closer to a side or rear lot line than ten feet or a distance equal to 10% of the frontage of the lot, whichever distance shall be greater; provided, however, that improvements and additions to existing lawful structures shall not be closer to a side or rear lot line than the nearest part of the existing structure, provided further that no such improvement or addition to any existing lawful structure shall be less than six feet from any existing structure on any adjoining lot or property. A detached accessory building may be located within three feet of the rear lot line, provided that the rear lot line is also a right-of-way line for a public alley or a public utility easement and provided the public alley or public utility easement has a width of not less than ten feet.
  - (D) *Lot coverage.* No more than 45% of the total area of a lot shall be covered by structures. Structures include all buildings, principal and accessory, sheds and shelters.
  - (E) *Floor area.* The minimum floor area per dwelling unit in the R-S shall be 1,750 square feet.
- (2) *Size of lot.*
- (A) No lot shall be used for residential purposes and no building for residential use shall be constructed or moved upon any lot having an area of less than five (5) acres plus any existing/required easements, having a width of less than 60 feet measured at a distance of 25 feet behind the front lot line or having an average depth of less than 100 feet. Where the parking area for the building and the

property is located within the front setback area, the minimum parking area shall be 20' wide by 40' deep.

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

(d) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for specified uses as set forth in section 33.

(e) *Occupancy of single-family dwellings.* No single-family dwelling, as defined in section 2, shall be occupied by more than one family, as defined in this Ordinance. For purposes of this section, occupancy shall be defined as living, sleeping or cooking within a dwelling.

(f) *Occupancy of two-family dwellings.* No two-family dwelling, as defined in section 2, shall be occupied by more than two families. For the purposes of this section, occupancy shall be defined as living, sleeping or cooking within a dwelling. Family shall be defined as set forth herein.

(g) *Home Occupations.* A home occupation is not allowed in this district unless the home occupation adheres to the following:

- (1) The business must be operated by a person residing in the home. Only a member of the occupant's family can be employed in the home business.
- (2) Signs must not be used to advertise the property or business address. Unauthorized advertisements include, but are not limited to, newspaper, radio, television, vehicular signs and telephone directories.
- (3) The home business cannot create obnoxious conditions such as noise, odor, increased traffic, light or smoke, nor shall it permit parking, stopping to load or unload anything and stopping to pick up or drop off passengers.
- (4) Not more than one vehicle for the business may be parked at the premises at any one time.
- (5) No outside storage of any nature connected with the home business is permitted, except for one vehicle used in connection

with the home business. The vehicle may be no longer than a passenger van or pickup truck.

- (6) The business must be conducted indoors.
- (7) No commodity may be sold on the premises
- (8) No equipment or materials not usually found in the home.

### **18. Multi-Family District Regulations R-M**

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

- (1) Any use permitted in the “R-S” District regulations. Any use of HUD-Code Manufactured Homes, temporary structures, trailers and/or mobile homes is prohibited.
- (2) Two-family dwellings or duplexes.
- (3) Occupations and activities carried on by resident members of families where:
  - (A) There is no sign other than one sign (non-illuminated) not larger than four square feet in area;
  - (B) No products but those made on the premises are sold on the premises;
  - (C) Mechanical equipment used is that normally used in a dwelling; and
  - (D) Only one person, other than a member of a family, is employed.
- (4) Lodging houses.
- (5) Hospital or clinic other than of a veterinarian.
- (6) Religious, educational and philanthropic institutions, but not animal care.
- (7) Lodges, fraternities and sororities where the chief activity is not a business.

- (8) Offices and office buildings. The total office space in a single structure shall not exceed a floor area of 5,000 square feet.
  - (9) Personal service shops such as beauty shops and barbershops, but not beauty and/or barber schools or colleges.
  - (10) Studios of artists and photographers.
  - (11) Nursery, pre-kindergarten, kindergarten, play, special and other private schools by special permit as provided in section 15.
  - (12) Greenhouses and nurseries not primarily engaged in retail trade by special permit as provided in section 15.
  - (13) Convalescent or rest homes by special permit as provided in section 15.
  - (14) Rowhouses or Townhouse.
  - (15) Multi-family dwellings.
- (b) *Height regulations.* No building shall exceed 35 feet or two stories in height.
- (c) *Area regulations.*
- (1) *Size of yards.*
    - (A) *Front yard.* There shall be a front yard having a depth of not less than 40 feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets. The maximum allowable driveway width shall not exceed twenty-two feet (22').
    - (B) *Side and rear yard.* No structure shall be closer to a side or rear lot line than ten feet or a distance equal to 10% of the front footage of the lot, whichever distance shall be greater; provided, however, that improvements and additions to existing lawful structures shall not be closer to a side or rear lot line than the nearest part of the existing structure, provided further that no such improvement or addition to any existing lawful structure shall be less than six feet from an existing structure on any adjoining lot or property. A detached accessory building may be located



within three feet of the rear lot line, provided that the rear lot line is also a right-of-way line for a public alley or a public utility easement and provided the public alley or public utility easement has a width of not less than ten feet.

- (C) *Lot coverage.* Except for the required yards, there is no requirement if there is no residential use on the Premises. When there is a residential use upon the Premises, no more than 60% of the total area of a lot shall be covered by structures. Structures shall include all buildings, principal and accessory, sheds and shelters, but not include roofed or covered parking areas where there are no side walls to the structures.
- (2) *Size of lot.*
  - (a) For all residential uses, the minimum dimensions for a lot as set forth in the “R-S” District regulations shall apply. No single-family, two-family or three-family dwelling shall be constructed or occupied on any lot having an area of less than five (5) acres plus existing/required easements. Any lot upon which there is multi-family dwelling (a structure containing three or more rowhouses or townhouse dwelling units shall be considered a multiple-family dwelling) containing four or more dwelling units shall have an area of not less than five (5) acres plus existing/required easements for each dwelling unit. For all non-residential uses, the minimum lot size shall be five (5) acres plus existing/required easements.
  - (b) Except as otherwise required by state law, where a lot having less area, width and/or depth herein required for a single-family dwelling or two-family dwelling existed in separate ownership upon the effective date of this Ordinance, the above regulations shall not prohibit the erection of a single-family dwelling or a permitted nonresidential use thereon.
- (3) *Spacing and location of structures.* Several structures may be located upon a lot, provided that:
  - (A) Any structure containing a residential use not facing a public street shall face upon a courtyard having a minimum width of 45 feet between structures or any

appurtenances thereto, which courtyard shall open upon public street; and

- (B) No two exterior walls of structures, either of which contain a residential use, that are parallel or within 45 degrees of being parallel, either of which contain windows, shall be closer together than a horizontal distance equal to one-half the combined height of the two structures, except that no structure need be separate by a distance greater than 45 feet. All other structures shall be separated by a minimum horizontal distance of 8 feet.
- (4) *Recreational open space.* Not less than 200 square feet of recreational open space per dwelling unit in a multiple-family, rowhouse or townhouse development shall be provided within the area of the project or development. The recreational open space shall be located or arranged so as to function as a recreational area or areas and be beneficial to all of the dwelling units in the project development. Required open space separating structures shall not be considered to be a part of the required recreational open space.
- (5) *Private open space.* Each dwelling unit in a rowhouse or townhouse project shall be provided with a private yard or open space of not less than 150 square feet in area, which space shall be immediately accessible and functional to the dwelling unit that it serves. The open space may be at the front, rear or side of a dwelling unit and shall be in addition to the required spacing between structures and not lines.
- (6) *Parking regulations.* Off-street parking shall be provided in accordance with the requirements for specified uses set forth in section 33.
- (7) *Occupancy of multiple dwellings.* No living unit within a multiple dwelling, as defined in section 2, shall be occupied by more than one family. For purposes of this section, occupancy shall be defined as living, sleeping or cooking within a dwelling.

#### **19. HUD-Code Manufactured Code District Regulations R-H**

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

- (1) Any use permitted in the “R-S” or “R-M” Districts regulations. Any use of temporary structures, trailers and/or mobile homes is prohibited.
  - (2) HUD-Code Manufactured homes.
- (b) *Minimum Site Requirements.*
- (1) *Minimum Lot Area.* The minimum lot area for any lot where a manufactured home is intended or will be located shall be five (5) acres plus existing/required easements.
  - (2) *Open Space Requirements.*
    - (C) *Front yard.* There shall be a front yard having a depth of not less than 40 feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets. The maximum allowable driveway width shall not exceed (22) feet.
    - (D) *Double frontage lots.* Where lots have double frontage running through from one street to another, the portion of the front yard running parallel to the frontage road running perpendicular to the front door may be fenced within the 40 feet front yard setback.
    - (E) *Side yard and rear yard.* No structure or fence shall be closer to a side or rear lot line than ten feet or a distance equal to 10% of the frontage of the lot, whichever distance shall be greater; provided, however, that improvements and additions to existing lawful structures shall not be closer to a side or rear lot line than the nearest part of the existing structure, provided further that no such improvement or addition to any existing lawful structure shall be less than six feet from any existing structure on any adjoining lot or property. A detached accessory building may be located within three feet of the rear lot line, provided that the rear lot line is also a right-of-way line for a public alley or a public utility easement and provided the public alley or public utility easement has a width of not less than ten feet. The minimum distance between manufactured homes on separate lots at any point shall be twenty-five feet (25').

- (F) *Lot coverage.* No more than 45% of the total area of a lot shall be covered by structures. Structures include all buildings, principal and accessory, sheds and shelters. Accessory structures on each lot shall have a minimum setback from any lot line of at least ten feet (10').
- (3) *Height Regulations.*
  - (A) No structure shall exceed 35 feet or two stories in height.
  - (B) The average height of the manufactured home frame above the ground elevation, measured at 90 degrees to the frame, shall not exceed three feet (3').
- (4) *Soil and Ground Cover.* Exposed ground surfaces on a manufactured home lot shall be paved or protected with a vegetative ground cover that is capable of preventing soil erosion and of eliminating dust.
- (5) *Drainage.* The ground surface of a manufactured home lot shall be graded and equipped to drain all surface water away from the manufactured home.
- (c) *Parking Requirements.* The minimum standards for parking are set forth and each manufactured home lot shall comply with section 33. Each parking space will be a minimum of ten feet (10') by twenty feet (20'). Each parking space shall be constructed of concrete, crushed stone, gravel or asphalt. Required parking spaces shall not obstruct pedestrian walkways.
- (d) *Carports.* As otherwise provided in this Ordinance.
- (e) *Manufactured Home Installation.* In addition to the requirements of any building code and fire code, manufactured homes shall be installed in accordance with the following criteria:
  - (1) Axle and hitch assemblies shall be removed at the time of placement on the foundation.
  - (2) A manufactured home shall be totally skirted with masonry, at least six inches (6") in depth, which is compatible with the design and exterior materials of the primary structure.
- (f) *Fire Safety Standards.*

- (1) *Access for Fire Fighting.* Approaches to all manufactured homes lots shall be kept clear for fire fighting.
  - (2) *Water Supply Facilities for Fire Department Operations.* Water supply facilities for fire department operations shall be connected to an available water supply. The adequacy of the water supply for firefighting requirements shall be determined by the City's engineering consultant. Standard hydrants shall be located within five hundred feet (500') of any manufactured home, measured along the driveways or streets.
- (g) *Utilities.* All utilities, including but not limited to electrical wiring, natural gas, telephone, cable, internet and security systems, shall be installed underground and shall be maintained in accordance with applicable City codes and regulations for such systems.
- (h) *Miscellaneous Requirements.*
- (1) Every lot owner with a manufactured home located thereon shall be responsible for ensuring compliance with all requirements of this Ordinance including proper installation of the manufactured home, proper installation of all utility connections and proper tie-down of the manufactured home.
  - (2) Skirting with the necessary vents, screens and/or openings shall be required on all manufactured homes and shall be installed within thirty (30) days after the placement of the manufactured home.
  - (3) Skirting, porches, awnings and other additions, when installed, shall be maintained in good repair. The use of space immediately underneath a manufactured home for storage shall be permitted only under the following conditions:
    - (A) The storage area shall have a base of impervious material.
    - (B) Stored items shall not interfere with the underneath inspection of the manufactured home.
    - (C) The storage area shall be enclosed by skirting.

**20. Commercial District “C” Regulations**

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

- (1) Any use permitted in the “R-M” or “R-H” District, other than residential uses of any kind.
- (2) Sales of all goods and products at retail. However, there shall be no outdoor display or storage of merchandise unless it is enclosed in a permanently constructed screened structure.
- (3) Shops for repair and servicing of goods including bicycles, typewriters, computers, electrical, radio and television appliances, keys and similar articles.
- (4) Automobile, motorcycle and truck repair conducted only in a building.
- (5) Dressmaking, millinery, tailoring, shoe repair, laundry, dry cleaning and similar trades.
- (6) Garages, including storage garages.
- (7) Banks.
- (8) Public cold storage lockers.
- (9) Animal hospitals and clinics where there are no open kennels.
- (10) Print, furnace, heating, air-conditioning, sheet metal, plumbing, tire and car washing establishments and similar shops.
- (11) Private or for-profit schools.
- (12) Undertaking establishments.
- (13) Bowling alleys.
- (14) Office and office buildings (no area limitations).
- (15) Motels and hotels.
- (16) Theaters, but not drive-in.
- (17) Soft drink bottling.

- (18) Jewelry manufacturing.
  - (19) Testing laboratories.
  - (20) Bakeries, wholesale.
  - (21) Publishing.
  - (22) Indoor Amusement and Recreation Centers by special permit as set forth in section 15.
- (c) *Height regulations.* The height regulations are the same as those in the “R-M” District regulations.
- (d) *Area regulations.* The area regulations in the “R-M” District regulations shall apply, except that:
- (1) No rear yard is required for a nonresidential use that is on a lot that does not back upon an “R” District; and
  - (2) No side yards are required on adjoining lots used for a nonresidential purposes, provided the owners agree to a “zero-lot” line. Otherwise there shall be a four (4) foot side yard. Along a side lot line adjoining an “R” District a side yard is provided as required in the adjoining “R” District.
- (e) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for specified uses as set forth in section 33.
- (f) *Sign Regulations.* Signs both permanent and temporary, used in connection with and on the same lot as the establishment to which they refer shall be governed by the Ordinance 17-09, the Oak Ridge sign ordinance, as amended.

## **21. Industrial District “I” Regulations**

- (a) *General Purpose and Description*

The “I” district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses do require accessibility to

major thoroughfares, major highways, and/or other means of transportation, such as the railroad.

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

- (1) Any use permitted in the "C" District. No residential uses of any kind are permitted.
- (2) Mini or public warehouses.
- (3) Storage warehouses.
- (4) Pawn shops.
- (5) Heavy-equipment sales or servicing.
- (6) HUD-Code or Recreational vehicle sales.
- (7) Automobile or boat sales.
- (8) Home improvement centers.
- (9) Museum.
- (10) Tool rental.
- (11) Restaurant or diner.
- (12) General Manufacturing.
- (13) Wrecking or salvage yard by special permit as set forth in section 15.
- (14) Sexually oriented business by special permit as set forth in section 15.
- (15) Recycling facility by special permit as set forth in section 15.

(c) *Maximum Height*

- (1) Thirty-five feet (35') for main building(s).
- (2) One (1) story or fifteen feet (15') for accessory building(s).

(d) *Area Regulations*



- (1) *Size of Lot*
    - (A) Minimum Lot Area – Five (5) acres plus existing/required easements for any “I” lot or site.
    - (B) Minimum Lot Width – One hundred feet (100') for any “I” lot or site.
    - (C) Minimum Lot Depth – One hundred fifty feet (150') from the front (i.e., addressed) street right-of-way line.
  - (2) *Size of Yards*
    - (A) *Minimum Front Yard* - Fifty feet (50') from ultimate right-of-way line of roadway; all yards adjacent to a street shall be considered a front yard.
    - (B) *Minimum Side and Rear Yard* – Twenty-five feet (25') unless adjacent to a residentially zoned property (see below).
    - (C) *Minimum Side or Rear Yard Adjacent to a Residential District* – Fifty feet (50') for one-story building, and an additional twenty feet (20') for every story (or fraction thereof) above one-story in height.
    - (D) *Maximum Lot Coverage* – Sixty percent (60%) including main and accessory buildings; maximum eighty percent (80%) impervious coverage (including all buildings, parking areas, sidewalks, etc.).
    - (E) *Maximum Floor-Area-Ratio* – Two to one (2:1).
- (e) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for specified uses as set forth in section 33.
- (f) *Sign Regulations.* Signs both permanent and temporary, used in connection with and on the same lot as the establishment to which they refer shall be governed by the Ordinance 17-09, the Oak Ridge sign ordinance, as amended.

**22. Agricultural District Regulations**

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

- (1) Any use permitted in the “R-S” District regulations. Any use of HUD-Code Manufactured Homes, temporary structures, trailers and/or mobile homes is prohibited.
- (2) Farm or ranch.
- (3) Animal pound.
- (4) Animal clinic or hospital.
- (5) Greenhouse or plant nursery.

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

(c) *Area regulations.*

- (1) Size of yards.
  - (A) *Front yard.* There shall be a front yard having a depth of not less than 40 feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets. The maximum allowable driveway width shall not exceed (22) feet.
  - (B) *Double frontage lots.* Where lots have double frontage running through from one street to another, the portion of the front yard running parallel to the frontage road running perpendicular to the front door may be fenced within the 40 feet front yard setback.
  - (C) *Side yard and rear yard.* No structure or fence shall be closer to a side or rear lot line than ten feet or a distance equal to 10% of the frontage of the lot, whichever distance shall be greater; provided, however, that improvements and additions to existing lawful structures shall not be closer to a side or rear lot line than the nearest part of the existing structure, provided further that no such improvement or addition to any existing lawful structure shall be less than six feet from any existing structure on

any adjoining lot or property. A detached accessory building may be located within three feet of the rear lot line, provided that the rear lot line is also a right-of-way line for a public alley or a public utility easement and provided the public alley or public utility easement has a width of not less than ten feet.

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

(E) *Floor area.* The minimum floor area per dwelling unit shall be 1,750 square feet.

(2) *Size of lot.*

(A) No lot shall be used for residential purposes and no building for residential use shall be constructed or moved upon any lot having an area of less than one (1) acre plus existing/required easements, having a width of less than 60 feet measured at a distance of 25 feet behind the front lot line or having an average depth of less than 100 feet. Where the parking area for the building and the property is located within the front setback area, the minimum parking area shall be 20' wide by 40' deep.

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

(d) *Parking regulations.* Off-street parking spaces shall be provided in accordance with the requirements for specified uses as set forth in section 33

### **23. Planned Development Zoning District Regulations**

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

(b) *Development Requirements.*

- (1) Development Requirements for each separate PD District shall be set forth in the Ordinance granting the PD District and may include, but not be limited to, restrictions relating to: use density, lot area, lot width, lot depth, yard depths and widths, height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, and other requirements as the Council may deem appropriate.
- (2) The Ordinance granting a PD District shall include a statement as to the purpose and intent of the PD granted therein.
- (3) An application for a PD District shall include a complete list of development conditions and uses which may be incorporated into the ordinance, if approved, as set forth in subsection (a). A development plan may be included with the application. If no development plan is submitted and the City Council finds one necessary, the matter shall be tabled until a development plan is submitted by the applicant. Such development plan shall not be approved or recommended for approval until it has been reviewed and a report submitted as set out in subsection (d).

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

- (1) The Council may require submission and approval of development plans showing the nature and character of the planned development, which may include location of uses, buffering and screening devices, traffic circulation, schematic area drainage map, curb cuts, utilities, refuse storage and collection, and other features necessary to depict the development. These development plans may consist of a Land Use Plan, a Concept Plan, and/or a Detail Plan. When a development plan is required, the approval of a Land Use Plan or a Concept Plan shall be deemed as incomplete for development and no development shall begin until a Detail Plan is approved for that portion for which a building permit is sought. Land Use Plans, Concept Plans, and Detail Plans shall be as set forth herein. These provisions shall apply only when development plans are required.
- (2) Land Use, Concept, and Detail Plans shall be accurately drawn to an appropriate legible scale and shall include title, north arrow, scale, date drawn, and necessary references to accurately locate the property. Copies in sufficient quantity and at an

appropriate size for review purposes shall be submitted by the owner, applicant, or their representative.

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

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

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

the Council deems are not required to be regulated may be shown for informational purposes but shall be presented in a manner to distinguish them from those being regulated.

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

#### **24. Commercial Districts, “C” and “I”, and “PD” District - Development and Design Guidelines**

(a) In conjunction with the Zoning Map and the City Comprehensive Plan, all commercial properties zoned “C” or “I” or any “PD” which includes commercial development that are built new, or renovated shall be required to comply in full with the development and design standards in this section 24.

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

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

(c) *Site Orientation, Layout, Lot Size and Setbacks.*

- (1) For new construction the building facades shall either be in close proximity to the Sidewalks and street front, or contained in a traditional layout with the building facades facing into a parking lot and/or street front.
- (2) For existing buildings, the location of the building may remain in its location, as long as the Site Plan otherwise reflects compliance with this code.
- (3) Size of Lots (for new construction or renovation):

- (A) Minimum Lot area of five (5) acres plus existing/required easements.
  - (B) Minimum Lot width of 50 feet
  - (C) Minimum Lot depth of 100 feet
- (4) Size of Yards
- (A) Minimum front setback 20 feet
  - (B) Minimum building setback 40 feet
  - (C) Minimum side and rear setbacks shall comply with section 20.
- (d) *Design and Development Standards.*
- (1) *Architectural Requirements:* The selected architectural materials must reflect a sense of quality and permanence by utilizing brick, stone, stucco, and concrete with synthetic textured material or split faced concrete block. EIFS (Engineered Insulated Finishing Systems) may be used at heights above four feet from grade for cornices, medallions, and other architectural details and elements. The color of building materials may include earth tones such as red, tan, brown, off white and pastels to provide a consistent color palate for the building or project.
  - (2) *Façade Composition:* All new buildings and newly renovated buildings shall have a defined base, a clear pattern of openings and surface features, a recognizable entry, an articulated roofline, and appropriate building materials. No wall shall extend more than 100 lineal feet without a vertical and horizontal building articulation of less than 10% percent of the vertical height and 2% of the horizontal plane of the building. (see **Exhibit “B”**). Blank walls are prohibited on the front façade and, for new buildings, on any facades that may face side streets. Store front glass must be incorporated into the façade along with projecting elements and recesses in the façade to define individual tenants within the building. Materials and architectural elements of the front façade shall be carried on all sides of the building.
  - (3) *Building Entrances:* Building entrances must be prominent and easy to identify. The main building entrance must be

distinguishable along the storefront. Rear or side entries should be easy to identify and treated as a secondary main entrance. At least one of the following treatments is required:

- (A) Entrance located in the center of the façade, as part of a symmetrical overall composition;
  - (B) Entrance accented by architectural elements, such as columns, overhanging roofs, awnings, or balconies; or
  - (C) Entrance marked or accented by a change in the roofline or change in the roof type.
- (4) *Accent Elements:* Typical elements such as cut-out openings and latticework, balconies, ornamental building numbers, medallions, and decorative ceramic tile accents may be suitable for design of building.
- (5) *Mechanical Equipment:* Exterior-building walls shall be tall enough to shield all rooftop mechanical equipment from the view from the street. Other screening devices such as latticework, louvered panels, and other treatments that are compatible with the building's architecture may be considered on a case-by-case basis with approval by the City Council. All ground mounted mechanical equipment shall be screened within a masonry wall matching the building material and color.
- (6) *Landscaping, Lighting, Sidewalk and Streetscape.*
- (A) *Street Trees.* Minimum 3 inch caliber trees shall be planted along all street frontage in a straight line spaced 25 ft. apart between the sidewalk and the street in areas where possible and are required for new construction. Trees may be clustered in any section up to 100'. For example, 4 trees in one larger landscaped area may replace single trees at 25' intervals. Required street trees may be located between the building and the sidewalk if overhead power lines are present. Tree grates shall be provided for tree planting in paved areas. Open tree grates shall be at least five feet by five feet (5' x 5') with openings no more than ½ inch in width (in narrow sidewalk areas, three-foot by seven-foot (3' x 7') is an acceptable alternate). The size and shape of the tree grates should relate to the paving pattern. The grates must be designed to allow for tree trunk growth, constructed of ductile iron, with a durable factory applied finish. If string lights are anticipated in the trees, electrical



outlets should be provided in the tree grate area. All trees and landscaping shall be provided with adequate water or irrigation systems.

- (B) *Irrigation requirements.* All buffer yards required under this section must be irrigated by an underground automatic irrigation system. Provided, however, that, when the total area of the buffer yard is less than 1,000 square feet, an irrigation system shall not be required if there is a working water faucet located no more than 100 feet from every part of the buffer-yard.
- (C) *Landscaping requirements.* The buffer yard shall be sodded with turf grass or ground cover that will provide the appearance of a finished planting. Minimum landscaping and buffering must be provided as outlined below. The landscaping in the buffer yard shall be protected from vehicular encroachment by curbs, concrete retainers or other permanent barriers.
- (D) *Point system requirements.* Buffer yards must earn a minimum of 25 points for each twenty five lineal feet of frontage. Points are awarded for providing and maintaining specific landscaping and design features. The points are accumulated as follows:

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

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

- (E) *Streetlights.* Where decorative style streetlights compliment the architecture, they may be used along street frontages.
- (7) *Other Architectural Elements.*

- (A) Reflective glass shall not be used for windows; detailing for windows, door and other openings shall be of wood, glass or a metal material that is complimentary to the façade or building style.
- (B) The use of Awnings and Canopies is encouraged.
  - (i) *Ratios* – Awnings shall be at an appropriate scale to the building size and configuration. They shall not extend above the roof line of any single-story structure, or above the top of the second floor of any multi-story structure at the awnings' highest points. Awnings shall not completely obstruct any windows on the building.
  - (ii) *Projection* – Since awnings must extend beyond the building face, a reasonable amount of projection shall be allowed. No awning shall extend more than five feet outward from the building face/surface.
  - (iii) *Colors and Materials* – A mixture of colors is recommended, but no more than three different colors shall be used for awnings on a single building façade (excluding business logo, which may have more colors). Materials shall be of cloth or canvas, or another material which is complimentary to the period or building style (metal or plastic shall be prohibited).
  - (iv) *Movement* – Except for slight movements that are normal for fabric canopies (i.e., along fringe, etc.), no movement shall be allowed for awnings and canopy structures.
- (8) *Pedestrian Streetscape* – Pedestrian spaces shall be treated with amenities that are selected based upon their ability to unify the streetscape with the building façade. It is important that elements such as construction materials, colors, textures and fixture design compliment the structure. These features shall be repeated throughout the streetscape so as to unify the district as a whole.
- (9) *Open Storage*. Open storage is prohibited in both the “C”, “I” and “PD” districts, except as provided in section (10) below.

- (10) *Outside Display.* Outside Display (defined as placing of items that are displayed outside on a temporary basis) is only permitted for merchandise and/or seasonal items for a period not to exceed thirty (30) days (e.g., Christmas trees, pumpkins, etc.) and no more than three (3) times per calendar year). All Outside Display shall further be limited to the following:
- (A) Shall not be placed/located more than 25' from the main building.
  - (B) Shall not occupy any off-street parking spaces.
  - (C) Shall not pose a safety or visibility hazard, nor impede public vehicular or pedestrian circulation, either on-site or off-site, in any way (i.e., sidewalk sales cannot block the sidewalk or extend out into the street).
  - (D) Shall only be located in front of the property/business which is selling the item(s).
  - (E) All outside display items shall be removed at the end of each business week (except for large seasonal items such as Christmas trees).
  - (F) All merchandise shall be displayed in a neat, orderly manner, and the display area shall be maintained in a clean, litter-free manner.
- (11) *Building Identification.* Each building shall prominently display the property address (at a minimum, a legible address number) that is legible from the adjoining streets by fire and police personnel.
- (e) *Wireless Telecommunication Facilities Standards.* For the purposes of this subsection (e), the term "antenna" means one or more wireless telecommunication antennas mounted on a monopole tower.
- (1) *Existing Structures:* Roof-mounted wireless telecommunication antennas are allowed on nonresidential buildings in all zoning districts by right provided the antenna does not exceed the height of the building by more than ten (10) feet. Associated equipment shall be placed either within the same building or in a separate building which matches the existing building in character and building materials. Wireless telecommunication antennas are allowed by right on existing utility structures exceeding seventy-

five (75) feet in height (including power or telephone poles, water storage facilities, and similar buildings and structures) operated by the City or public utility companies provided that the antenna does not exceed the height of the structure by more than ten (10) feet.

- (2) *Freestanding Towers*: Freestanding Towers shall require a Special Use Permit (SUP) and shall only be permitted in zoning districts: Commercial (C) and Industrial (I). Freestanding wireless telecommunication antennas must be a minimum of three to one (3:1) height to distance ratio from single-family residential boundary lines. Freestanding wireless telecommunication antennae must be a minimum distance of 5,000 feet from another wireless telecommunications antenna (unless excepted by reason of an incentive provided below). Equipment buildings must be similar in color and character to the main or adjoining building or structure and screened by a chain link fence, a wrought iron fence with evergreen hedge, or masonry wall.
- (3) *Incentives*: Wireless telecommunication antennas located on existing buildings or utility structures are not subject to the 5,000-foot separation requirement. A wireless telecommunication antenna may be located less than 5,000 feet but not less than 3,000 feet from another wireless telecommunication antenna provided that: (i) the antenna will be used for two or more wireless communications providers; or (ii) the antenna is designed and built so as to be capable of use by two or more wireless communications providers and the owner of the antenna certifies to the City that the antenna is available for use by another wireless communication provider on a reasonable and nondiscriminatory basis and a cost not exceeding the actual prorated share of the design, construction and maintenance costs of the facilities.

## **25. Special Exceptions**

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

- (1) The Board of Adjustment (hereinafter called the "Board") may grant a special exception to the minimum front yard requirements in this section for a carport for a single family or duplex use when, in the opinion of the Board:
  - (A) There is not adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and

- (B) The carport will not have a detrimental impact on surrounding properties and the materials and colors shall be consistent with the main building structure.
  - (2) Storage of items other than motor vehicles is prohibited in a carport for which a special exception has been granted under this section.
- (b) *Special exceptions for minimum side yard requirements.*
- (1) The Board may grant a special exception to the minimum side yard requirements in this section for a carport for a single family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties.
  - (2) In determining whether to grant this special exception, the Board shall consider the following factors:
    - (A) Whether the requested special exception is compatible with the character of the neighborhood;
    - (B) Whether the value of surrounding properties will be adversely affected;
    - (C) The suitability of the size and location of the carport; and
    - (D) The materials to be used in construction of the carport.
  - (3) Storage of items other than motor vehicles is prohibited in a carport for which a special exception has been granted under this section.

### **GENERAL REGULATIONS**

#### **30. Maximum Height Limits May Be Varied**

- (a) If a public building, church, temple, hospital, institution or school is set back and additional foot over the required minimum, it may be increased in height two feet (2') over the height limit of the district in which located.
- (b) Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental towers, spires, radio towers, electric and telephone lines and poles or necessary mechanical appurtenances are exempt from height regulations.

- (c) All accessory buildings are limited to fifteen feet (15') in height.
- (d) Those parts of existing buildings that violate height regulations may be repaired and remodeled, but may not be reconstructed or structurally altered.

### **31. General Rules For Yards Must Also Be Observed**

- (a) On lots fronting on two nonintersecting streets, a front yard must be provided on both streets.
- (b) On corner lots in the "R" Districts, there shall be a yard along the side-street side of the tract of at least 40 feet, except the buildable width of a corner lot shall never be less than 30 feet. On corner lots in the "C", "I" or "PD" Districts, there shall be a yard along the side-street side of the tract of at least 5 feet. In an "R" District, where the rear yard of a corner lot abuts on the side yard of an adjacent lot, the corner lot shall provide a side yard along the side-street side of the tract which is equal in width to the depth required for the front yard of the adjacent lot. In those instances where the area adjacent to the rear yard of a corner lot in an "R" District has not been developed or the preliminary plat for the area has not been approved, the corner lot shall provide a side yard along the side-street side of at least 40 feet. In no event shall the buildable width of a corner lot be less than 30 feet.
- (c) On corner lots in the "C", "I", "PD" and "R-M" Districts that rear upon a "R" District, a ten-foot (10') yard must be provided along the side-street side.
- (d) Where a block frontage is divided among districts with different front yard requirements, the deepest front yard as required by this Ordinance shall apply to the entire frontage.
- (e) Those parts of existing buildings that violate yard regulations may be repaired and remodeled, but not reconstructed or structurally altered, except as provided in section 45.
- (f) Required front yards shall be used only for landscaping, walkways and driveways necessary for access to the parking areas. In the "C" District, signs and light standards may be located in required front yards. No other structures are permitted.

### **32. Exceptions in Yard Regulations**

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

- (1) Where the building farthest from the street provides a front yard not more than ten feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.
  - (2) Where subsection (1) is not the case and a lot is within 100 feet of a building on each side, then the front yard is a line drawn from the closest front yard for the frontage is and remains an average of the then existing front yards.
  - (3) Where neither subsections (1) nor (2) is the case and the lot is within 100 feet of an existing building on one side only, then the front yard is the same as that of the existing adjacent building.
  - (4) In no event shall a front yard in excess of 40 feet be required.
- (b) Sills, belt course, cornices and ornamental features may project only one foot into a required yard.
- (c) Open, unenclosed porches (not glassed in) and canopies may extend five feet into a front yard.
- (d) Terraces which do not extend above the level of the ground (first) floor may project into a require yard, provided these projections be distant at least two feet from the adjacent lot line.

### **33. Off-Street Parking Spaces Required**

- (a) *Parking spaces, in general:*
- (1) Empty space in fire lanes, bank or other drive-through lanes, which are adjacent to a curb, and gasoline or automobile fuel canopies or fuel pumps, shall not be considered as parking spaces meeting the requirement of this Code. No parking space located on a public street or alley may be included in the calculation of off-street parking spaces.
  - (2) For new construction, no parking space may be placed within ten feet of the right-of-way on public right-of-ways ("Buffer Yard"). The parking space and connecting driveways shall be a hard, level surface on which vegetation cannot grow constructed to City ordinances of either concrete or asphalt.
- (b) The requirements for off-street parking spaces shall be as follows:

- (1) For single-family and two-family dwellings, two spaces for each living unit in the building. The maximum allowable driveway width shall not exceed twenty-two (22) feet.
- (2) For multiple-family dwellings, including but not limited to, townhouses, rowhouses and apartment hotels, two spaces for each dwelling unit.
- (3) For hotels, one space for each guest room or suite of the first 20 individual guest rooms or suites; one additional parking space for each two guest rooms or suites in excess of 20 but not exceeding 40; one additional space for each four guest rooms or suites in excess of 40; plus one additional space for each four patron seats in rooms open to the nonresident public; plus one space for each 200 square feet or display or ballroom area.
- (4) For motels, one space for each bedroom unit, plus one additional space for each four patron seats of facilities open to the nonresident public, plus one space for each 200 square feet of display or ballroom area.
- (5) For lodging house, one space for each rental room.
- (6) For churches erected on new sites, one parking space on the lot for each five seats in the main auditorium.
- (7) For places of public assembly, including auditoriums and theaters, one space for each four seats provided.
- (8) For elementary and junior high schools, public, parochial and private, ten spaces for each classroom.
- (9) For hospitals, one-half space for each bed.
- (10) For institutions, lodges and public buildings, one space for each 1,000 square feet of floor space.
- (11) For offices, five spaces for each 1,000 square feet of floor space.
- (12) For all commercial uses and personal service shops, and for all uses in either "C", "I" or "PD" districts, one space for each 150 square feet of floor area, except:
  - (A) For Buildings or Shopping Centers contained on contiguous lots which have Premises exceeding 9,000



square feet, the requirement shall be one space for each 200 square feet of floor area; or

- (B) For Buildings or Shopping Centers contained on contiguous lots which have Premises exceeding 25,000 square feet, the requirement shall be one space for each 250 square feet of floor area.
  - (13) For industrial uses, one space for each two employees of maximum number employed at any one time.
  - (14) For all uses except those specified in this section, one space for each 150 square feet of floor area.
  - (15) All parking requirements shall conform to the Texas Accessibility Standards adopted by the Texas Department of Licensing and Regulation in compliance with the State and Federal Guidelines.
- (c) Exceptions in Off-Street Parking Regulations
- (1) No Variance from the requirements for off-street parking shall be permitted except as provided in subsection (c)(2) of this section:.
  - (2) A Variance from the parking requirements of this Ordinance may be granted in the discretion of the Board of Adjustment based on the historic use of the properties, the proposed parking requirements and the impact of such requirements on adjoining shared parking properties.

### **34. Mobile Homes Prohibited**

Mobile home dwellings, as defined in this Ordinance, are prohibited in any and all zoning districts in the City. This prohibition shall not apply to a mobile home dwelling which legally existed as of January 27, 2011.

### **35. Replacement of Mobile Home**

(a) In the event that a mobile home dwelling occupies a lot within the City, the owner of the mobile home dwelling may remove the mobile home dwelling from its location and place a HUD-Code manufactured home on the same property, provided that the replacement is a newer HUD-Code manufactured home, and is at least as large in living space as the prior mobile home dwelling. Except in the case of a fire or natural disaster, the owner of the mobile home dwelling is limited to a single replacement of the mobile home by a HUD-Code manufactured home on the same property.

(b) A property owner who has a mobile home dwelling which has been placed on a lot in violation of the terms of this Chapter shall not have the right to replace the illegal use. This section 35 shall not be interpreted to legitimize an otherwise illegal use.

### **36. Replacement of HUD-Code Manufactured Homes**

(a) In the event that a HUD-Code manufactured home occupies a lot within the City, the owner of the HUD-Code manufactured home may remove the HUD-Code manufactured home from its location and place another HUD-Code manufactured home on the same property, provided that the replacement is a newer HUD-Code manufactured home, and is at least as large in living space as the prior HUD-Code manufactured home. Except in the case of a fire or natural disaster, the owner of the HUD-Code manufactured home is limited to a single replacement of the HUD-Code manufactured home on the same property.

(b) Property owners who have a HUD-Code Manufactured Homes which has been placed on a lot in violation of the terms of this Ordinance shall not have the right to replace the illegal use. This section shall not be interpreted to legitimize an otherwise illegal use.

(c) Except with regard to subsection (b) of this section above, the replacement provisions of this section shall not apply in the R-H zoning district.

## ***ACCESSORY USES AND BUILDINGS***

### **40. Accessory Uses Permitted**

(a) In the “R” Districts:

- (1) Private garages.
- (2) Vegetable and flower gardens.
- (3) Animal run.
- (4) Tennis courts, swimming pools, tool sheds, garden houses and similar uses customarily accessory to residential use.

(b) In the “R-M” District, storage garages and parking lots for use solely of occupants of the premises are permitted.

(c) In the “C” and “I” Districts, as provided in Section 41.

- (d) Temporary buildings for construction purposes are permitted in any district as accessory buildings during the course of construction, not to exceed six (6) months.
- (e) Accessory buildings may not be used for dwelling purposes.
- (f) Accessory buildings may be located in a rear yard.

#### **41. Accessory Buildings in “C” and “I” Districts**

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

#### **42. Visual Screening and Buffering Requirements**

- (a) The purpose of this section is to preserve property; values and to improve the living environment of the City, by providing visual screening barriers and buffers on commercial properties to protect adjoining residential properties from visually incompatible structures and land uses, overhead lighting, wind and dust and increased activity associated with commercial, industrial, institutional and other land uses.
- (b) A visual screening device or buffer shall be provided at each boundary of any commercial property where the property abuts a residential property. The visual screening device or buffer required by this section shall be put in place at or before the time construction is completed for any nonresidential use.
- (c) Where a commercial lot abuts a residential property abuts a residential lot, a visual screening device or buffer shall be placed on the commercial lot to provide a solid visual barrier between the commercial lot and the residential lot. The visual screening and buffering may be accomplished by walls, fences, trees, vegetation, brush or shrubbery, provided that the materials or vegetation used to provide the visual screening device or buffer provide an adequate visual screening barrier between the commercial lot and the residential lot. The determination of whether a visual screening device or buffer provides an adequate visual screening barrier between the commercial lot and the residential lot shall be determined by the City’s Building Inspector.
- (d) In addition to the general visual screening and buffering requirements stated in subsection (c) of this section, the following specific visual screening and buffering requirements shall apply to all commercial uses:

- (1) All outdoor storage areas for materials, trash, mechanical equipment (including ground based satellite dishes), vehicles or other similar items shall be screened from view by a minimum six foot high visual screening wall, device or buffer.
- (2) All loading, delivery and service bays shall be screened from street view by a screening wall, device or buffer of at least six feet (6') in height.
- (3) All outdoor lighting shall be directed down and screened or shielded away from adjacent residential properties and streets.

### ***NONCONFORMING USES***

#### **45. Nonconforming Uses are Regulated**

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

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

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

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

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

greater than 50% of the reasonable value of the structure, except that at such time as a repair or renovation of a building requires a building permit, special use permit, a change in use to or from a non-conforming use, or requires application for a Site Plan Application, then the property shall comply in full to the use and design standards regulations for the district in which the structure is located.

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

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

(f) Where the premises currently uses non-conforming signs or billboards, the uses must be discontinued and the signs and billboards removed within three years from the date the signs were erected or one year after the effective date of this Ordinance, whichever is longer.

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

(h) Existing uses of types eligible for special permits in section 15 shall be conforming uses and shall receive a special permit for the existing use from the Building Inspector upon request, but shall require a special permit for any enlargement or addition.

#### **46. Authority**

The City Council maintains all zoning authority for the City of Oak Ridge, except as granted to the Board of Adjustments. The City Council may from time to time on its own motion or upon application amend, supplement, change, modify or repeal the regulations, restrictions and boundaries herein established.

**47. Application For Amendments or Changes To The Regulations and/or District Map**

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

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

**48. Notice, Public Hearings and Procedure For Amending or Changing This Ordinance and/or Zoning Map**

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

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

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

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

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

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

**49. Informational Signs**

Upon the filing of an application to amend, supplement or change the zoning classification, regulation or Zoning Map on a lot/tract of property, the owner/developer/applicant shall be required to place an informational sign on the lot/tract of property within five (5) days after the date that the application was filed.

**50. Protest**

(a) If a proposed change to regulation or boundary is protested as set forth herein, the proposed change must receive, in order to take effect, the affirmative vote of at least three-fourths (3/4) of all members of the governing body.

(b) *Procedures.*

- (1) The protest must be written and signed by the owners of at least 20% of either:
  - (A) The area of the lots or land covered by the proposed change; or
  - (B) The area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area.
- (2) In computing the percentage of land area under this section, the area of streets and alleys shall be included. The written protest by any person, firm or corporation with an ownership interest in property as stated herein binds the entire property to the protest for purpose of calculating the 20%.

**51. Reconsideration/New Applications.**

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

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

- (2) The City Council rejected the amendment, supplement or change without prejudice to the refile of same.

## **52. Nonconforming Uses**

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



**BOARD OF ADJUSTMENT****58. ORGANIZATION.**

(a) The City Council may, if it so desires, provide for the appointment of a Board of Adjustment, consisting of five members, appointed by the City Council, each to be appointed for a term of two years, removable for cause as set forth in Ordinance 211 of the Local Government Code. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The City Council may appoint two alternate members to the Board of Adjustment, who shall serve in the absence of one or more regular members. The alternate members shall serve for the same period as the regular members, and any vacancies of alternates shall be filled in the same manner and alternates shall be subject to removal in the same manner as the regular members. Each member or alternate member of the Board shall be a resident citizen and qualified voter of the City, at the time of his appointment. A member or alternate member who ceases to reside in the City during his term of office shall immediately forfeit his office.

(b) Should the City Council not provide for the appointment of a Board of Adjustment, the jurisdiction of the Board of Adjustment, including all powers, obligations and duties of the Board of Adjustment, shall not be effect and, for purposes of this Ordinance, the relevant provisions regarding the Board of Adjustment shall be interpreted as if the City had not adopted a board of adjustment.

**59. JURISDICTION.**

(a) The Board shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the administrative official in the enforcement of this Ordinance.
- (2) To hear and decide only such special exceptions as the board of adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this Ordinance, or to deny special exceptions when not in harmony with the purpose and intent of this Ordinance.
- (3) To hear and decide upon only such variances or modifications of the height, yard, area, coverage and parking regulations as the Board is specifically authorized to pass on pursuant to the terms of this Ordinance.

- (4) To hear and decide upon the existence of any nonconforming use and to enforce the amortization provisions as set forth in this Ordinance.
  - (5) To hear and decide upon such other matters as authorized by this Ordinance or under State law.
- (b) The Board shall be guided by the following parameters in the performance of its duties under the powers vested in the Board:
- (1) *Special Exceptions.*
    - (A) A special exception shall not be granted by the Board unless and until:
      - (i) Written application for a special exception is submitted indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested;
      - (ii) Notice shall be given at least fifteen (15) days in advance of the public hearing. The owner of the property for which special exception is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property for which the special exception is sought, at the City hall, and notice shall be provided in one other public place, such as a newspaper, at least fifteen (15) days prior to the public hearing;
      - (iii) A public hearing shall be held. Any party may appear in person or by agent or attorney;
      - (iv) The Board shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.
  - (b) In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Ordinance and the penalties set forth in

section 80 shall apply. The Board shall prescribe a time limit within which the action for which the special exception is required shall begin or be completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception, without necessity of further action by the Board.

(2) *Variances.*

- (a) To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship and so that the spirit of this Ordinance is observed and substantial justice is achieved. A variance from the terms of this Ordinance shall not be granted by the Board unless and until a written application for a variance is submitted demonstrating.
  - (i) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district or area;
  - (ii) That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district or area under the terms of this Ordinance;
  - (iii) That the special conditions and circumstances do not result from the actions of the applicant; and
  - (iv) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district or area.
- (b) Nonconforming use of neighboring lands, structures, or buildings in the same district, and permitted use of lands, structures, or buildings in other districts shall not be considered grounds for the issuance of a variance.
- (c) Notice of public hearing shall be given as set forth in subsection (2)(A)(i) of this section;

**Zoning and Development Code**

- (d) A public hearing shall be held. Any party may appear in person, or by agent or by attorney;
  - (e) The Board shall make findings that the requirements of subsection (b)(1) of this section have been met by the applicant for a variance;
  - (f) The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
  - (g) The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
  - (h) In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and the penalties set forth in section 80 shall apply.
  - (i) Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
- (3) *Nonconforming uses.*
- (a) The Board, on its own motion or at the direction of the City Council or an interested property owner, may inquire into the existence of any nonconforming use in the City of Oak Ridge, and after public hearing and investigation into the conditions created by the use, fire or health hazards created by the use, and any other danger or nuisance to the public due to or created by any condition or use existing on the property, require the discontinuance or termination of such use. The owner of the use under investigation by the Board shall have not less than ten (10) days written notice prior to the day of the public hearing.

The Board, after having heard from any affected parties and the public, shall prescribe a reasonable time period for compliance, discontinuance and termination of the nonconforming use that allows for amortization of the owner's actual investment in the use that occurred before the time that the use became nonconforming.

- (i) In prescribing said time period, the Board shall consider the following factors:
  - a. The capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property at the time the use became nonconforming;
  - b. Any costs that are directly attributable to the establishment of compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages;
  - c. Any return on investment since inception of the use, including net income and depreciation; and
  - d. The anticipated annual recovery of investment, including net income and depreciation.
- (ii) If the Board establishes an amortization (or compliance) date for a nonconforming use, the use must cease operation on that date and it may not operate thereafter unless it becomes a conforming use.
- (iii) For purposes of this section, "owner" means the owner of the nonconforming use at the time of the Board's determination of an amortization (or compliance) date for the nonconforming use.
- (iv) The Board shall have the power to subpoena witnesses, documents and things; administer oaths; punish for contempt; and may require the production of documents and other things, under

such regulations as it may establish or deem appropriate.

- (4) *Appeal of Administrative Official's Decision:* In exercising its powers, the Board may, in conformity with the provisions of the state statutes, as existing or hereafter amended, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and make such order, requirement, decision or determination, in the Board's opinion, as ought to be made and shall have all the powers of the officer from whom the appeal is taken.
- (A) Appeals to the Board concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer, department or board of the City affected by any decision of the administrative official. Such appeals shall be taken within a reasonable time, not to exceed fifteen (15) days, after the decision has been rendered by the administrative official by filing with the official and the Board a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- (B) The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.
- (C) An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board after the notice of appeal is filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- (5) *Action.* The concurring vote of at least four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is

required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.”

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

### **PLATTING**

#### **65. Policy**

- (a) It is the policy of the City of Oak Ridge to subject the subdivision, platting and replatting of land to the control of the city pursuant to state law and all rules, regulations, and policies the city may adopt.
- (b) To be platted, land must be of such character that it can be used safely for building purposes without danger or health or peril from fire, flood or other menace.
- (c) Land must not be platted until proper provision has been made for paving, drainage, water, wastewater, public utilities, fire protection, capital improvements, parks, recreational facilities, and right-of-way for streets, transportation facilities, and improvements.
- (d) These policies supplement and are intended to facilitate the enforcement of the provisions and standards of the Oak Ridge City Code, state law, and all other rules, regulations, and policies which the city may adopt.

#### **66. Purpose**

- (a) Protect and provide for the public health, safety, and general welfare of the city;
- (b) Guide the future growth and development of the city;
- (c) Guide public policy and action in order to provide adequate and efficient transportation, streets, storm drainage, water, wastewater, parks, and open space facilities;
- (d) Provide for the proper location and width of streets and building lines;

- (e) Establish reasonable standards of design and procedures for platting in order to further the orderly layout and use of land, and to insure proper legal descriptions and monumenting of platted land;
- (f) Insure that public infrastructure facilities as required by city ordinance are available with sufficient capacity to serve the proposed plat prior to the issuance of any certificate of occupancy or release of utility connections or final inspection within the boundaries of the plat;
- (g) Provide that the cost of public infrastructure improvements which primarily benefit the tract of land being platted be borne by the owners of the tract to the extent required by city ordinance;
- (h) Prevent the pollution of air, streams, and ponds by assuring the adequacy of drainage facilities and by safeguarding the escarpment, flood plains, and the water table.

#### **67. When Platting is Required**

- (a) *Creation of a building site.* Platting is required to create a building site pursuant to the Oak Ridge City Code.
- (b) *Subdivision.* Platting is required to divide a lot or tract into two or more parcels for purposes of transfer of ownership or development of the parcels. Although a conveyance of property may be accomplished through a metes and bounds description without the necessity of platting, the conveyance will not be recognized as a building site, nor will the lines of ownership be recognized for the purpose of determining development rights on the parcel so conveyed.
- (c) *Combination.* Platting is required to combine two or more lots or tracts into one lot.

#### **68. Subdivision Regulations**

The City hereby adopts the Kaufman County Subdivision and Land Development Rules and Regulations, as amended (“Regulations”), insofar as the Regulations do not conflict with this Ordinance. In the event that the Regulations conflict with any terms of this Ordinance, the terms of this Ordinance shall control.

#### **80. Penalty**

Any person who shall violate any of the provisions of this Ordinance, who shall fail to comply therewith or with any of the requirements thereof, who shall erect or alter any building or who shall commence to erect or alter any building in violation of any detailed statement or plan submitted or approved



there under, shall for each and every violation or noncompliance be deemed guilty of a misdemeanor and shall be fined not more than \$2000, and each day the violation shall be permitted to exist shall constitute a separate offense. The owner of that building or premises or part thereof where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent or corporation employed in connection therewith who may have assisted in the commission of any such violation shall each be guilty of a separate offense and upon conviction shall be subject to the penalties herein provided.”

### **Section 3. SEVERABILITY CLAUSE**

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

### **Section 4. REPEALER CLAUSE**

Any provision of any prior ordinance of the City, whether codified or uncodified, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

### **Section 5. RESERVATION CLAUSE**

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

### **Section 6. PUBLICATION**

The City Secretary of the City of Oak Ridge, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Oak Ridge, Texas, as

authorized by Section 52.013, Texas Local Government Code. This ordinance shall take effect upon adoption and publication

**Section 7. EFFECTIVE DATE**

This Ordinance shall become effective immediately upon its passage and publication as required by law.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Oak Ridge, Texas, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Al Rudin, Mayor  
City of Oak Ridge

ATTEST:

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Donna Sprague, City Secretary  
City of Oak Ridge