

ARTICLE 9.01 GENERAL PROVISIONS

Sec. 9.01.001 Planning commission

The city council shall act as the planning commission for the city and it shall be its duty to make or cause to be made and recommend for adoption a comprehensive city plan as a whole or in parts for the future development and redevelopment of the city and its environs which shall include, but shall not be limited to, the following:

- (1) To make studies and project plans for the improvement of the city with a view of its development and extensions, and to recommend to the city council all matters for the development and advancement of the city facilities, layouts and appearance, and to perform the duties imposed upon the city planning commission by the statutes of the state.
- (2) To make or cause to be made the plans and maps of the whole or any portion of the city and of land outside the city limits located within the planning area of such city limits, and any other land outside the city which in the opinion of the city planning commission bears a relation to the planning of the city and to make or cause to be made such changes in additions and extensions of plans or maps within the city as it deems same advisable.
- (3) To act with and assist all other municipal and governmental agencies in formulating and executing proper plans for municipal development.
- (4) To plan and recommend the location, plan and extent of city streets, alleyways, parks, playgrounds, airports, automobile parking places, and other public grounds and public improvements, for the location and planning of public buildings, schools and other properties, and of public utilities, including bus terminals, railroad depots and terminals, whether publicly or privately owned, for water, lights, sanitation, sewage disposal, drainage, flood control, transportation, communication and shipping facilities, and for the removal, relocation, widening, extension, narrowing, vacation, abandonment or change of use of any of the foregoing public places, work, buildings, facilities or utilities.
- (5) To select and recommend routes of streets, avenues and boulevards and particularly to investigate and recommend the opening, widening, or abandonment of streets, boulevards and alleyways or the changing thereof to conform to the city's system, present and future, all streets, avenues, boulevards, alleyways, and parks.
- (6) To investigate and consider the layout and plan of any new subdivision to the city or property situated within the extraterritorial jurisdiction of the city as defined by statute and to approve all plans, plats or replats of additions within the city limits and the said extraterritorial jurisdiction.
- (7) To recommend to the city for adoption, rules and regulations governing plats and subdivisions of land within the corporate limits of the city or within the said extraterritorial jurisdiction to promote health, safety, moral and general welfare of the community, and the safe and orderly and healthful development of the community; such rules and regulations may be adopted by the city council only after a public hearing held thereon.

- (8) To recommend plans for improving, developing, expanding and beautifying the parks, lakes, and public buildings in or adjacent to the city [to] other agencies of the city in devising, establishing, locating, improving, selecting, expanding and maintaining the public parks, playgrounds and lakes for public recreation.
- (9) To recommend plans for the development of civic centers and to make investigations, consider and make recommendations concerning traffic regulations, routing and controlling and highway designations.
- (10) To review the city's present building codes and recommend any changes that may be desirable.

(Ordinance 283 adopted 7/19/1965; 1989 Code, sec. 17.101)

State law reference—Zoning commission, V.T.C.A., Local Government Code, sec. 211.007.

ARTICLE 9.02 ZONING ORDINANCE*

Division 1. Generally

Sec. 9.02.001 Districts

(a) For the purpose of promoting health, safety, morals, or the general welfare of the community by regulating and restricting the location of trades and industries and the location of buildings erected or altered for specified uses, and to regulate and limit the size of buildings hereafter erected or altered, to regulate and determine the area of yards and other open spaces, and to regulate and limit the density of the population, the city is hereby divided into districts of which there shall be seven (7) known as:

- “R-1” One-Family District
- “R-2” Duplex and Apartment District
- “R-3” House Trailer District
- “R-4” Small House District
- “B-1” Retail Business District
- “B-2” General Business District
- “C-1” Commercial District

* **Editor's note**—This article consists of the zoning ordinance, Ordinance 66-7 adopted December 19, 1966, as amended, previously published as chapter 21 of the 1989 Code. Section and subsection numbers, style, capitalization and formatting have been changed to be consistent with the remainder of the Code of Ordinances, and this will be maintained in future amendments to this article. Designation of the provisions as divisions 1 through 5 was by the editor. In some cases, section titles have been modified to more accurately reflect the subject matter. Changes in the names of state agencies have been incorporated without notation. Obviously misspelled words have been corrected without notation. Except for these changes, such ordinance is printed herein as set out in the 1989 Code. Any other material added for purposes of clarification is enclosed in brackets.

State law references—Planning and zoning generally, V.T.C.A., Local Government Code, chs. 211, 212, 371.

(b) The districts aforesaid and the boundaries of such districts are shown upon the map attached hereto and made a part of this article, being designated as the "District Map" and said map and all the notations, references and other information shown thereon shall be as much a part of this article as if the matters and information set forth by said map were all fully described herein.

(c) Except as hereinafter provided:

- (1) First: No building shall be erected, reconstructed or structurally altered, nor shall any building or land be used for any purpose other than is permitted in the district in which such building or land is located.
- (2) Second: No building shall be erected, reconstructed or structurally altered to exceed the size herein established for the district in which such building is located.
- (3) Third: No lot area shall be so reduced or diminished that the yards or other open places shall be smaller than prescribed by this article, nor shall the density of population be increased in any manner except in conformity with the area regulations herein established.
- (4) Fourth: No yard or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be considered as providing an open yard or open space for any other building, provided further that no yard or open space or an adjoining property shall be considered as providing a yard or open space on a lot whereon a building is to be erected.
- (5) Fifth: Every building hereafter erected shall be located on a lot as herein defined and in no case shall there be more than one (1) building on one (1) lot, except as hereinafter provided.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.101)

Sec. 9.02.002 Definitions

For the purpose of this article, certain terms and words are herewith defined as follows. Words used in the present tense include the future; words in the singular number include the plural, and the words in the plural number include the singular; the word "building" includes the word "structure"; and the word "shall" in mandatory, and not directory.

Accessory building. A subordinate building or portion of main building, the use of which is clearly incidental to that of the main building.

Alley. A way which affords only a secondary means of access to abutting property.

Apartment house. See "Dwelling, multiple."

Basement. A story partly underground and having at least one-half (1/2) of its height above the average level of the adjoining ground. A basement shall be counted as a story of [sic] subdivided and used for dwelling or business purposes.

Bed and breakfast. An owner-occupied dwelling unit that contains no more than eight (8) guest rooms without individual cooking facilities that is rented for overnight lodging for compensation and serves at least one meal per day.

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

Building. A structure having a roof supported by columns or walls and when separated by a division wall without openings each portion of such building shall be deemed a separate building.

Court. An open unoccupied space other than a yard, on the same lot with a building and which is bounded in [on] two (2) or more sides by the building.

Dependent mobile home. A mobile home without inside toilets and bath and same are prohibited in a mobile home park as defined in this section.

Dwelling, multiple. A building or portion thereof, used or designated as a residence for two (2) or more families as separate housekeeping units, including apartments and apartment hotels.

Dwelling, one-family. A detached building designed for or occupied exclusively by one (1) family.

Family. One (1) or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity, or sorority house.

Frontage. All the property abutting on one side of a street between two (2) intersecting streets, measured along the street line.

Garage, private. An accessory building with capacity for not more than four (4) self-propelled vehicles for storage only. Provided, however, a private garage may exceed four (4) vehicles capacity if the lot whereon such a garage is located contains not less than fifteen hundred (1 500) square feet for each vehicle stored.

Garage, public. A building other than a private or storage garage used for the care, repair, or equipment of self-propelled vehicles or where such vehicles are kept for remuneration, hire or sale.

Garage, storage. A building or portion thereof, other than a private garage, used exclusively for parking or temporary storage or [of] self-propelled vehicles.

Group house. A group of detached or semi-detached dwellings facing upon a place as herein defined.

Hotel. A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals and in which there are more than fifteen (15) sleeping rooms usually occupied singly and no provision made for cooking in any individual room or apartment.

House trailer. A non-self-propelled vehicle containing living living [sic] or sleeping accommodations which is designed or used for highway travel.

Lodging house. A building other than a hotel where lodging for five (5) or more persons is provided for compensation.

Lot. Land occupied or to be occupied by a building and its accessory building, together with such open spaces as are required under this article, and having its principal frontage upon a street or officially approved place.

- (1) Corner lot. A lot situated at the junction of two (2) or more streets.
- (2) Interior lot. A lot other than a corner lot.
- (3) Through lot. A lot having frontage on two parallel or approximately parallel streets.

Lot lines. The lines bounding a lot as defined herein.

Lot of record. A lot which is part of a subdivision, the map of which has been recorded in the office of the county clerk of Williamson or Bell County.

Mobile home park. Any plot of ground licensed under any law of this city regulating same upon which two or more mobile homes occupied or intended for occupancy at such location for dwelling or sleeping purposes for any length of time are located regardless of whether or not a charge is made for such accommodation. Mobile home parks must be licensed by the city.

Mobile home site. A standard city lot outside a mobile home park designed for the accommodation of one permanent mobile home and meeting the city requirements as to dimensions, planning and all other applicable requirements.

Nonconforming use. A building or land occupied by a use that does not conform with the regulations of the use district in which it is situated.

Person. Any natural individual, firm, trust, partnership, association or corporation.

Place. An open unoccupied space other than street or alley permanently reserved as the principal means of access to abutting property.

Servants' quarters. An accessory building located on the same lot or grounds with the main building, and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

Special events facility. A building and premises used as a customary meeting or gathering place for personal social engagements or activities lasting normally no more than several hours, where people assemble for celebrations, honoring, teaching, selling, remembrances, parities, weddings, wedding receptions, reunions, birthday celebrations, other business purposes, or similar such uses for profit, in which food and beverages may be served to guests; provided that no alcohol may be sold on the premises.

Street. A public or private thoroughfare which affords a principal means of access to abutting property.

Structural alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or additions thereto.

Structure. Anything constructed or erected, the use of which requires location on the ground or that is to be attached to something having a location on the ground.

Travel trailer. Any mobile structure used for temporary living quarters while travelling, and same are prohibited on mobile home sites in the city.

Used car sales area. An open area other than a street, alley or place used for the display and sale of used automobiles and where no repair work is done except the necessary reconditioning of the cars to be displayed and sold on the premises.

Used junk car area. An open area other than a street, alley or place used for the dismantling or wrecking of used automobiles or the storage, sale or dumping of dismantled or wrecked cars or their parts.

Yard. An open space other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

- (1) **Front yard.** A yard extending across the front of the lot between the inner side yard lines and measured between:
 - (A) The front property line and the front line of the building; or
 - (B) The front property line and the nearest line of any open porch or paved terrace.
- (2) **Rear yard.** A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building.
- (3) **Side yard.** A yard between the building and the other side of the lot and extending from the street line to the rear yard.

(Ordinance 66-7 adopted 12/19/1966; Ordinance 85-6 adopted 7/1/1985; 1989 Code, sec. 21.102; Ordinance 2012-07, sec. 2, adopted 9/26/2012)

Sec. 9.02.003 Fences

No fences will be permitted to be built, constructed, or placed in the front yard of any lot in the “R-1”, “R-2”, or “R-3” district. (Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.103)

Secs. 9.02.004–9.02.030 Reserved

Division 2. Use and Area Regulations

Sec. 9.02.031 Use regulations: “R-1” district

In the “R-1” One-Family District, no building or land shall be used and no building shall be hereafter erected or structurally altered, unless otherwise provided by law, except for one or more of the following uses:

- (1) One-family dwelling.

- (2) Churches.
- (3) Schools, elementary and high.
- (4) Museums, libraries, parks and playgrounds.
- (5) Buildings for hospitalization and care of minor children on land now owned for such purposes by philanthropic institutions.
- (6) Accessory buildings, including one detached private garage or servants' quarters, when located not less than sixty feet (60') from the front lot line, nor less than five feet (5') from any other street line; provided, however, that servants' quarters may be erected above a private detached garage. A private garage may be constructed as a part of the main building or attached to it by a covered passage, but servants' quarters shall not be permitted on such attached garage.
- (7) Uses customarily incident to any of the above uses when situated in the same dwelling, including home occupations such as the office of physician, surgeon or dentist.
- (8) Pump stations, fire stations, or any other city installations.
- (9) Hospitals or clinics.
- (10) Rest homes (nursing homes).
- (11) Mobile homes under section 12.206.
Editor's note—Section 12.206 of the 1989 Code was repealed by Ordinance 2012-02.
- (12) Special events facility.
- (13) Bed and breakfast.

(Ordinance 66-7 adopted 12/19/1966; Ordinance 85-6 adopted 7/1/1985; 1989 Code, sec. 21.201; Ordinance 2012-07, sec. 3, adopted 9/26/2012)

Sec. 9.02.032 Area regulations: "R-1" One-Family District

(a) In the "R-1" One-Family District, the minimum dimensions of yards and the minimum lot area per family shall be as follows:

- (1) Rear yard. There shall be a rear yard having a depth of not less than twenty percent (20%) of the depth of the lot, provided such rear yard not exceed twenty-five feet (25') from the centerline of the alley.
- (2) Side yard.
 - (A) On interior lots there shall be a side yard on each side of a building having a width of not less than ten percent (10%) of the width of the lot, provided that

such side yard may not be less than five feet (5') in width, except in the case of a two-story, where the side yard may be not less than ten feet (10') in width.

- (B) On corner lots the side lot regulation shall be the same as for interior lots except in the case of reversed frontage where the corner lot is [faces] an intersecting street. In this case, there shall be a side yard on the street side of the corner lot of not less than fifty percent (50%) of the front yard required on the lots in the rear of such corner lot, and no accessory building on said corner lot shall project beyond the front yard line on the lots in the rear; provided further that this regulation shall not be interpreted as to reduce the width to be built upon, after providing the required interior side yard of a corner lot facing an intersecting street and of record at the time of the passage of this section to less than twenty-eight feet (28'), nor to prohibit the erection of an accessory building where this regulation cannot reasonably be complied with.

- (3) Front yard. There shall be a front yard of not less than twenty-five feet (25') to the front line of the building.

- (4) Lot area per family.

- (A) In the "R-1" One-Family District every building hereafter erected or structurally altered shall provide a lot area of not less than seven thousand five hundred (7,500) square feet per family, and minimum lot frontage of seventy-five feet (75').

- (B) Provided, however, that where a lot has less area than herein required and was of record at the time of the passage of this section, said lot may be occupied by not more than one family.

(b) No building shall be erected, altered, or placed on said lots other than one detached single-family dwelling and a private garage with guest room, domestic employee quarters or utility room attached unless otherwise provided in this section.

(c) The ground floor area of the residence or dwelling erected in the "R-1" district shall contain not less than one thousand (1,000) square feet of an area exclusive of carport and garage with room attached, and shall not contain less than one thousand, four hundred (1,400) square feet of area if a carport or garage is attached. Front exterior walls shall contain a minimum of thirty percent (30%) masonry. Construction will be of frame, brick veneer or masonry veneer.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.202)

Sec. 9.02.033 Use regulations: "R-2" Duplex and Apartment District

In the "R-2" Duplex and Apartment District, no building or land shall be used and no buildings shall be hereafter erected or structurally altered, unless otherwise provided in this article, except for one or more of the following uses:

- (1) Any use permitted in the "R-1" One-Family District.
- (2) Multiple dwellings.

- (3) Duplex residence.
- (4) Boarding and lodging houses.
- (5) Hotels in which incidental business may be conducted for the sole convenience of the occupants of the building; provided, however, there shall be no entrance to such place of business except from the inside of the building.
- (6) Private clubs, fraternities, sororities, and lodges, excepting those the chief activity of which is a service customarily carried on as a business.
- (7) Institutions of an educational or philanthropic nature, other than those of a correctional nature, or for mental cases.
- (8) Accessory buildings and uses customarily incident to any of the above uses, when located on the same lot and not involving the conduct of a business, including private and detached storage garages and servants' quarters when located not less than sixty feet (60') from the front lot line nor less than five feet (5') from any other street line. Private or storage garages constructed as a part of the main building, or servants' quarters erected above private detached garages.
- (9) Mobile homes under section 12.206.

Editor's note—Section 12.206 of the 1989 Code was repealed by Ordinance 2012-02.

(Ordinance 66-7 adopted 12/19/1966; Ordinance 85-6 adopted 7/1/1985; 1989 Code, sec. 21.301)

Sec. 9.02.034 Area regulations: "R-2" Duplex and Apartment District

In the "R-2" Duplex and Apartment District, the minimum dimensions of yards and the minimum lot area per family shall be as follows:

- (1) Rear yard. There shall be a rear yard having a depth of not less than twenty percent (20%) of the depth of the lot, provided such rear yard need not exceed twenty-five feet (25') for interior lots nor fifteen feet (15') for corner lots.
- (2) Side yard.
 - (A) For buildings not exceeding two and one-half (2-1/2) stories in height, the side yard requirements shall be the same as required in the "R-1" One-Family District. For buildings more than two and one-half (2-1/2) stories in height, each side yard shall be increased one foot (1') in width for each additional story above the second floor.
 - (B) On corner lots the side yard regulations shall be the same as for interior lots except in the case of reversed frontage where the corner lot faces an intersecting street. In this case, there shall be a side yard on the street side of the corner lot of not less than fifty percent (50%) of the front yard required on the lots in the rear of such corner lot and no accessory building on said corner lot shall project beyond the front yard line on the lots in the rear; provided further, that this regulation shall not be interpreted as to reduce the width to be

built upon, after providing the required interior side yard, of a corner lot facing an intersecting street and of record at the time of passage of this section, to less than twenty-eight feet (28'), nor to prohibit the erection of an accessory building where this regulation cannot reasonably be complied with.

- (3) Front yard. There shall be a front yard of not less than twenty-five feet (25') to the front line of the building.
- (4) Lot area. Every building hereafter erected or structurally altered shall provide a lot area of not less than seven thousand five hundred (7,500) square feet. The minimum lot frontage shall be seventy-five feet (75') and the minimum depth shall be one hundred feet (100').
- (5) The ground floor area of the residence or dwelling erected in the "R-2" district shall contain not less than one thousand three hundred (1,300) square feet of area if a carport or garage is attached.
- (6) The ground floor area of the duplex residence erected in the "R-2" district shall contain not less than seven hundred (700) square feet per unit if the unit has three bedrooms; not less than six hundred (600) square feet of area per unit if the unit has two bedrooms; not less than five hundred (500) square feet of area per unit if the unit has one bedroom. Construction will be of frame, brick veneer or masonry veneer.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.302)

Sec. 9.02.035 Use regulations and area regulations in "R-3" House Trailer District

(a) In the "R-3" House Trailer District, no buildings or land shall be used and no building shall be hereafter erected or structurally altered, unless otherwise provided in this article, except for one or more of the following uses:

- (1) Any use permitted in the "R-1" One-Family District.
- (2) Any use permitted in the "R-2" Duplex and Apartment District.
- (3) Park and established house trailers herein.

(b) Lot area per family. In the "R-3" House Trailer District every building hereafter erected or structurally altered shall provide a lot area of not less than six thousand (6,000) square feet. Provided, however, these regulations shall not apply to hotels, apartment houses or house trailers. The minimum lot frontage shall be sixty feet (60') and the minimum depth shall be one hundred feet (100').

(c) Provided, however, that where a lot has less area than herein required and was of record at the time of the passage of this section, said lot may be occupied by not more than one family.

(d) The ground floor area of the residence or dwelling erected in the "R-3" district shall contain not less than seven hundred (700) square feet of area per unit if the unit has three bedrooms; not less than six hundred (600) square feet of area per unit if the unit has two bedrooms; not less than five hundred (500) square feet of area per unit if the unit has one bedroom. Construction will be of frame, brick or veneer [brick veneer] or masonry veneer.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.401)

Sec. 9.02.036 Use and area regulations in “R-4” Small House District

(a) In the “R-4” Small House District, no buildings or land shall be used and no buildings shall be hereafter erected or structurally altered, unless otherwise provided in this article, except for one or more of the following:

- (1) Any use permitted in the “R-1” district.
- (2) Any use permitted in the “R-2” district.
- (3) Any use permitted in the “R-3” district.
- (4) Boarding and lodging houses.

(b) Lot area per family. In the “R-4” Small House District every building hereafter erected or structurally altered shall provide a lot area of not less than two thousand four hundred (2,400) square feet for one family. The minimum lot frontage shall be forty feet (40') and the minimum depth shall be sixty feet (60').

(c) Provided, however, that where a lot has less area than herein required and was of record at the time of the passage of this section, said lot may be occupied by not more than one family.

(d) The ground floor area of the residence or dwelling erected in the “R-4” district shall contain not less than five hundred (500) square feet of area exclusive of one-story open porches, basement area, carport and garage with room attached.

(e) The ground floor of the duplex residence or dwelling erected in the “R-4” district shall contain not less than four hundred fifty (450) square feet of area per unit exclusive of the carport and garage with room attached. The dwelling must be of frame construction and provide sanitary facilities.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.501)

Sec. 9.02.037 “B-1” Retail Business District

(a) Use regulations. In the “B-1” Retail Business District no land shall be used and no building shall be used, erected or converted to any use other than:

- (1) Bank and office.
- (2) Bakery, retail only.
- (3) Cafeteria.
- (4) Cleaning and pressing shops.
- (5) Drug store.

- (6) “Fix-it” shops, not to exceed four hundred (400) square feet in area.
- (7) Florist shops.
- (8) Gasoline filling stations.
- (9) Grocery store.
- (10) Meat market.
- (11) Moving picture theater (not drive-in).
- (12) Restaurants.
- (13) Shoe repair store.
- (14) Tailor.
- (15) Professional offices.
- (16) Motels and tourist courts.
- (17) Hospitals and clinics.
- (18) Any other retail use provided such use is not noxious or offensive by reason of the emission of odors, soot, dust, noise, gas fumes, or vibration but excluding such uses as are enumerated in the “B-2” and “C-1” district.

(b) No other use shall be permitted and none of these stores or uses shall be open for business before six o’clock (6:00) a.m. not after twelve o’clock (12:00) p.m. on any day of the week except by special permit of the city council.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.601)

Sec. 9.02.038 “B-1” Retail Business District - Downtown Area

(a) Boundaries. The “B-1” Retail Business District - Downtown Area is comprised of the Blocks 15, 16, 21, 22, and the southern half of Block 17, Original Town of Bartlett, Bell and Williamson County, Texas.

(b) Use regulations. The “B-1” Retail Business District - Downtown Area is established in order to provide convenient locations for retail, professional services, general sales or service, residential, lodging, restaurants and similar uses, including but not limited to the following:

- (1) Amusement, entertainment and fitness facilities.
- (2) Antique stores.
- (3) Art galleries, woodworking, sculpting.
- (4) Bank and office.

- (5) Bakery, retail only.
- (6) Barber shops, beauty salons, and spas.
- (7) Bed-and-breakfast lodging.
- (8) Bookstores.
- (9) Cafeteria.
- (10) Cleaning and pressing shops.
- (11) Clothing stores.
- (12) Dance and music studios and academies.
- (13) Drug store.
- (14) "Fix-it" shops, not to exceed four hundred (400) square feet in area.
- (15) Florist shops.
- (16) Gasoline filling stations.
- (17) General merchandise stores.
- (18) Grocery store.
- (19) Meat market.
- (20) Moving picture theater(not drive-in).
- (21) One-family dwellings, multi-family dwellings, duplex residences, and apartments shall be allowed within the boundaries of the "B-1" Retail Business District - Downtown Area as described in this section 9.02.038. Mobile homes, manufactured homes, and house trailers are not permitted in the "B-1" Retail Business District - Downtown Area.
- (22) Pet shops.
- (23) Restaurants.
- (24) Shoe repair store.
- (25) Tailor.
- (26) Professional offices.
- (27) Motels and tourist courts.

- (28) Hospitals and clinics.
 - (29) Specialty shops.
 - (30) Any other retail, professional service, personal service, general sales or service, restaurant, and similar use provided such use is not noxious or offensive by reason of the emission of odors, soot, dust, noise, gas fumes, or vibration, but excluding such uses as are enumerated in the “B-2” and “C-1” district (unless otherwise specifically allowed in this section 9.02.038).
- (c) No other use shall be permitted and none of these stores or uses shall be open for business before six o’clock (6:00) a.m. nor after twelve o’clock (12:00) a.m. on any day of the week except by special permit of the city council.
- (d) A residential use allowed in this “B-1” Retail Business District - Downtown Area may be situated within a building also utilized for another use permitted in the “B-1” Retail Business District - Downtown Area. An authorized residential use situated in this “B-1” Retail Business District - Downtown Area is exempt from the requirements of this article related to the minimum dimensions of yards, the minimum lot area per family, and the minimum square foot requirements for the residential use.

(Ordinance 05-001 adopted 2/7/2005)

Sec. 9.02.039 “B-2” General Business District

- (a) Use regulations. In the “B-2” General Business District no land shall be used and no building shall be used, erected or converted to any other use than:
- (1) Any use permitted in the “B-1” Retail Business District.
 - (2) Automatic laundry.
 - (3) Washateria.
 - (4) Auto repair garage.
 - (5) Automobile, truck and bus service and repairs.
 - (6) Cabinet maker.
 - (7) Carpenter shop.
 - (8) Carpet cleaning if dust-proof rooms and dust catching and scour equipment is used.
 - (9) Ice manufacture.
 - (10) Lumber yard (building materials).
 - (11) Motorcycle repairing.
 - (12) Paint shop.

- (13) Sheetmetal shop.
- (14) Stone monument works.
- (15) Storage warehouse.
- (16) Taxicab storage and repair.
- (17) Used car lot.
- (18) Drive-in theaters.
- (19) Any other retail or wholesale use, provided such use is not noxious or offensive by reason of emission of odors, soot, dust, noise or vibrations, but excluding such uses as are enumerated in the “C-1” Commercial District.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.701)

Sec. 9.02.040 “C-1” Commercial District

(a) Use regulations. In the “C-1” Commercial District, no land shall be used and no building shall be used, erected or converted to any other use than:

- (1) Any use permitted in the “B-1” Retail Business District.
- (2) Any use permitted in the “B-2” General Business District.
- (3) Any manufacturing or industrial process not prohibited by any other law, provided, however, that no building or occupancy permit shall be issued for any of the following uses until and unless the location of use shall have been approved by the city council:
 - (A) Acid manufacture.
 - (B) Cement, lime manufacture.
 - (C) Explosive, manufacture or storage.
 - (D) Fertilizer manufacture.
 - (E) Gas manufacture.
 - (F) Glue manufacture.
 - (G) Petroleum refining.
 - (H) Stockyards, or slaughter of animals.
 - (I) Tannery.

- (J) Storage of paper, iron or junk.
- (K) Used car dismantling yard.
- (L) Oil well drilling.
- (M) Cotton gins.
- (N) Grain storage.
- (O) Any other commercial use provided such use is not noxious or offensive by reason of the emission of odors, soot, dust, noise, gas fumes, or vibrations.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.801)

Sec. 9.02.041 Prohibiting the installation of gasoline pumps and tanks

- (a) It shall be unlawful for any person, corporation or association of persons to install and maintain any gasoline pump or any storage tank for gas in and along Clark Street within the city between the east line of East Front Street and the west line of Dalton Street and in and along Evie Street within the city between the north line of the alley running east and west through Blocks 16 and 22 of the city.
- (b) Any corporation, person or association of persons violating this section, shall, upon conviction in a court of competent jurisdiction, be fined in any sum not exceeding one hundred dollars (\$100.00), and each day shall constitute a separate offense.
- (c) This section shall not apply to any gasoline pump or storage tank already installed and being maintained within said restricted section, but shall apply to replacements or reinstallations made or attempted after the original pumps and tanks have been abandoned.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.802)

Secs. 9.02.042–9.02.070 Reserved

Division 3. Nonconforming Buildings and Uses

Sec. 9.02.071 Nonconforming buildings and uses

- (a) The lawful use of any building, structure or land existing at the time of the enactment of this section may be continued although such use does not conform with the provisions of this article, provided, however, the right to continue such nonconforming uses shall be subject to regulations prohibiting the creation of a nuisance and shall terminate when inappropriate use of the premises produces a condition which constitutes a nuisance and shall terminate when inappropriate use of the premises produces a condition which constitutes a nuisance [sic] and further, the right of nonconforming uses to continue shall be subject to such regulations as the maintenance of the premises and conditions of operations as may in the judgment of the city council be reasonably required for protection of adjacent property and further, the right of nonconforming uses to continue shall be subject to the specific regulations herein contained.
- (b) Nonconforming buildings.

- (1) Occupancy permitted. A nonconforming building or structure may be occupied except as herein otherwise provided.
 - (2) Repairs or alterations. Repairs or alterations may be made to a nonconforming building or structure, provided that no structural alteration shall be made except those required by law or ordinance, and further provided these regulations shall never be construed to allow an addition to a nonconforming building.
 - (3) Additions, enlargements or moving. A nonconforming building or structure shall not be added to or enlarged in any manner unless such addition and enlargements are made to conform to all the regulations of the district.
 - (4) Restoration of damaged buildings. A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, explosion, earthquake, or other calamity or act of God, shall not be again restored or used for such purpose if the expense of such restoration exceeds seventy-five percent (75%) of the replacement cost of the building or structure at the time such damage occurred. Any nonconforming building or structure partially destroyed may be restored within twelve (12) months of the date of partial destruction and is diligently prosecuted to completion. Whenever a nonconforming building or structure is damaged in excess of seventy-five percent (75%) of its replacement cost at that time, the repair or reconstruction of such building or structure shall conform to all the regulations of the district in which it is located, and shall be treated as a new building.
- (c) Nonconforming uses of buildings.
- (1) Except as otherwise provided in this section the nonconforming use of the building or structure lawfully existing at the time of the effective date of this section may be continued.
 - (2) The use of a nonconforming building or structure may be changed to use of the same, or more restricted classification, but where the use of nonconforming building or structure is hereafter changed to a use of a more restricted classification, it shall not thereafter be changed to a use of less restricted classification.
 - (3) A vacant, nonconforming building or structure lawfully constructed may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of one year after the effective date of this section, and the use of a nonconforming building or structure lawfully constructed which becomes vacant after the effective date of this section, may also be occupied by the use for which the building or structure was designed or intended, if so occupied within a period of one year after the building becomes vacant.
 - (4) Expansion prohibited. A nonconforming use of a conforming building or structure (i.e., commercial use in a dwelling, etc.) shall not be expanded nor changed except to a conforming use. If such nonconforming use or portion thereof is discontinued or changed to a conforming use any future use of such building, structure, or portion thereof shall be in conformity with the regulations of the district in which such building or structure is located.

- (5) Extension. A nonconforming use shall not be extended, but the extension of a lawful use to any portion of a lawfully existing nonconforming building or structure which existed prior to the enactment of this section shall not be deemed the extension of such nonconforming use.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.901)

Sec. 9.02.072 Nonconforming use of land

(a) Continuation of use. The nonconforming use of land (where no main building is involved), existing at the time of the effective date of this section, may be continued as provided:

- (1) That no such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property.
- (2) That if such nonconforming use of land or any portion thereof is discontinued or changed, any future use of such land or portion thereof, shall be in conformity with the provisions of this section.
- (3) That any sign, billboard, poster panel, storage yard, or trailer camp, which is lawfully existing and maintained at the time of the effective date of this section may be continued, although such use does not conform with the provisions hereof, provided, however, that no structural alterations are to be made thereto.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.902)

Sec. 9.02.073 Abandonment

(a) Abandonment. A nonconforming use of any building, structure or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned:

- (1) When the intention of the owner to discontinue the use is apparent; or
- (2) When the characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within one year; or
- (3) When a nonconforming building, structure or land or portion thereof which is or hereafter becomes vacant and remains unoccupied or out of use for a continuous period of one year; or
- (4) When it has changed to another use under permit from the city council; or
- (5) When it has been replaced by a conforming use.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.903)

Sec. 9.02.074 Displacement of conforming use

A nonconforming use shall [not] be extended to displace a conforming use. (Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.904)

Sec. 9.02.075 District changes

Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one district to another district of a different classification or when boundaries or districts are changed as a result of annexation of new territory or changes in the regulations or restrictions of this article, the foregoing provisions shall also apply to any nonconforming uses existing therein which may so become nonconforming. (Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.905)

Secs. 9.02.076–9.02.100 Reserved

Division 4. Appeals, Special Exceptions and Variances

Sec. 9.02.101 Procedure covering special exceptions, appeals and granting of variances

(a) Appeals and requests to the city council for variances may be taken by any person aggrieved or by any official, department, board or bureau of the city affected by any decision of the administrative officer. Such appeal or request for variance shall be taken within fifteen (15) days' time after the decision has been rendered by the administrative officer, by filing with the officer from whom the appeal is taken and with the secretary of the city a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith have made [forwarded] to the secretary of the city council all the papers constituting the record upon which the action appealed from was taken.

(b) Such notice of appeal properly filed as herein provided, shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the city council after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the city council or by a court of record on notice to the officer from whom the appeal is taken and no [on] due cause shown.

(c) Upon notice of appeal being given to the secretary of the city council, before such appeal shall be construed as having been perfected the applicant must file with such notice of appeal to the secretary of the city council an amount of money estimated by the secretary of the city council to be sufficient to mail and publish all notices required herein, such amount in no case to be less than fifteen dollars (\$15.00).

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1001)

Sec. 9.02.102 Application for special exception

(a) Application for special exceptions to the terms of this article shall be made in writing in duplicate on forms provided in the office of the city secretary by the prospective occupant or owner of that property. One such application shall be accompanied by an amount of money estimated by the city secretary to be sufficient to mail and publish all notices required herein, such amount in no case to be less than fifteen dollars (\$15.00).

(b) One duplicate original of such application shall be forthwith forwarded by the city secretary to the city council.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1002)

Sec. 9.02.103 Notice

The city council shall hold a public hearing on all special exceptions, granting of variances and appeals and written notice of all such public hearings shall be sent by the city secretary on forms prepared by the city secretary's office to the applicant by the city council to be affected thereby, and all owners of real property lying within two hundred feet (200') of the property on which the special exception, grant of variance or appeal is proposed, such notice to be given not less than ten (10) days before the date set for the hearing to all such owners who have rendered their said property as appears on the last approved city tax roll. Such notice may be served by depositing the same properly addressed and postage paid in the city post office. Notice shall also be given by publishing the same in a newspaper of general circulation in the city at least fifteen (15) days prior to the date set for hearing which notice shall state the time and place of such hearing, provided, however, all provisions contained herein with respect to the mailing and publishing of such notices of hearing shall be deemed sufficient upon substantial compliance with this section, and is to be construed as directory and not mandatory. (Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1003)

Sec. 9.02.104 Hearing

(a) Upon the hearing of [a special exception, variance, or appeal] any interested party may appear in person or by agent or by attorney.

(b) The burden of proof shall be on the applicant to establish the facts necessary which the city council must find before granting any special exception, variance, or appeal as herein contained.

(c) In exercising the powers herein granted, the city council may in conformity with the provisions of this section reverse or affirm wholly or partly or may modify the order, requirement, or decision or determination appealed from and may make such other requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

(d) The concurring vote of a simple majority of members of the city council shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this article or to effect any variation of this article or grant any special exception hereto.

(e) No appeal, request or application to the city council shall be allowed on the same piece of property prior to the expiration of six (6) months from a ruling of the city council on any appeal, request, or application but shall in no way have any force in law to compel the city council, after hearing, to grant such subsequent appeal, request or application, but such hearing shall be considered on its merits as in all other cases.

(f) Any special exceptions, variances or appeals authorized or granted by the city council either under the provisions of this article or under the authority granted to the city council under the statutes of the State of Texas shall authorize the issuance of a building permit, or a certificate of occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable

action on the part of the city council, unless said city council in its minutes shall, at the same time, grant a longer period. If the building permit or certificate of occupancy shall not have been issued within said ninety (90) day period, or such extended period as the city council may specifically grant, then the special exception, variance or favorable appeal shall be deemed waived and all rights thereunder terminated. Such terminating and waiver shall be without prejudice to a subsequent appeal to said city council in accordance with the rules and regulations herein contained.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1004)

Sec. 9.02.105 Granting of special exception

- (a) A special exception may be granted an applicant when the city council finds:
- (1) That the granting of such exception will not be detrimental to the public health, safety, morals and the general welfare of the general public; and
 - (2) That the granting of such exception will not be detrimental or injurious to the property or improvements in such zone or neighborhood in which the property is located; and
 - (3) The granting of such exception will be in harmony with the general purpose and intent of this section [this article].
- (b) In determining its finding, the city council shall take into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such building or upon such land and traffic conditions in the vicinity.
- (c) The city council may, after public notice and hearing and subject to the conditions and safeguards herein contained, authorize special exceptions to this article as follows:
- (1) Permit the reconstruction of a building occupied as a nonconforming use.
 - (2) Permit the extension of a nonconforming use of a building upon a lot occupied as a nonconforming use.
 - (3) Grant in relatively underdeveloped sections of the city temporary and conditional permits for not more than two (2) year periods for any use of land, excluding structures.
 - (4) Permit in any district such modification of the requirements of this section [this article] as the city council may deem necessary to secure an appropriate development of a lot where adjacent to such lot on two or more sides that [there] are buildings that do not conform to these regulations.
 - (5) Permit such modification of yard, lot area or lot width regulation requirements as may be necessary to secure appropriate improvements of a parcel of land where such parcel was separately owned on the effective date of this article, and is not adjacent to another parcel of the same ownership and where such parcel is of such size that it cannot be improved without such modification or of such restricted area that it cannot be appropriately improved without such modification.

- (6) Grant conditional use permits in any zone where such uses are allowed conditionally by the provisions of this article.
- (7) In granting any special exception under the provisions of this article, the city council may designate such conditions in connection therewith which, in its opinion, will secure substantially the purpose and intent of this article.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1005)

Sec. 9.02.106 Variances

- (a) A variance may be granted an applicant when the city council finds:
 - (1) That there are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar for such land or building and do not apply generally to lands or buildings in the same zone or neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of such land or building.
 - (2) That the granting of such variance will not be detrimental to the public welfare or injurious to the property or improvements in such zone or neighborhood in which the property is located; and
 - (3) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the city council is the minimum variance that will accomplish this purpose.
 - (4) That the literal enforcement and strict application of the provisions of this article will result in an unnecessary hardship inconsistent with the general provisions and intent of this article and that in granting such variance the spirit of the law will be preserved and substantial justice done.
- (b) In addition to considering the character and use of adjoining buildings and those in the vicinity, the city council, in determining its findings shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.
- (c) The city council may, after public notice and hearing and subject to the conditions and safeguards herein contained, vary or adapt the strict application of any of the terms of this article under the powers and authority herein granted.
- (d) In granting any variance under the provisions of this article, the city council may designate such conditions in connection therewith, which, in its opinion, will secure substantially the purpose and intent of this article.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1006)

Sec. 9.02.107 Appeal from city council

- (a) (As provided by V.T.C.A., Local Government Code, chapter 211): Any person or persons, jointly or severally, aggrieved by any decision of the city council or any taxpayer, or any office, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or 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 city council.
- (b) Upon the presentation of such petition the court may allow a writ of certiorari directed to the city council to review such decision of the city council and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall be not less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, upon application, or [on] notice to the city council and on due cause shall grant a restraining order.
- (c) The city council shall not be required to return the original papers acting upon by it, but it shall be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- (e) Costs shall not be allowed against the city council unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.
- (f) All issues in any proceedings under this section shall have preference over all other civil actions and proceedings.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1007)

Secs. 9.02.108–9.02.130 Reserved

Division 5. Administration and Enforcement

Sec. 9.02.131 Generally

Except as otherwise provided in this article the city secretary shall administer and enforce this article, including the receiving of applications, the inspection of premises and the issuing of building permits and certificates of occupancy and compliance. No building permit or certificate of occupancy shall be issued by him except where the provisions of this article have been complied with. (Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1101)

Sec. 9.02.132 Building permit required

No person shall erect or construct or proceed with the erection or construction of any building, structure or storm cellar or fallout shelter nor add to, enlarge, move, alter, convert, extend or demolish any building or structure or cause the same to be done in any zone district in the city

without first applying for and obtaining a building permit therefor from the city secretary. All applications for such permits shall be in accordance with the requirements of this article and unless upon written order of the city council, no such building permit or certificate of occupancy shall be issued for any building where said construction, addition, alteration, or use thereof would be in violation of any of the provisions of this article. (Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1102)

Sec. 9.02.133 Powers and duties of city secretary

(a) Whenever any building work is being done contrary to the provisions of this article, the city secretary may order the work stopped and also revoke the building permit therefor issued by notice in writing served on any person owning such property or their agent or any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop and cause to be stopped such work until authorized by the city secretary to recommence and proceed with the work or upon issuance of a building permit in those cases in which the building permit has been revoked and further, such stop work order and revocation of permit shall be posted on the work being done in violation of this article.

(b) Whenever any building or portion thereof is being used or occupied contrary to the provisions of this article the city secretary shall order such use or occupancy discontinued and the building or portion thereof vacated by notice served on any person using or causing such use or occupancy to be continued and such person shall vacate such building or portion thereof within ten (10) days after receipt of such notice or make the building or portion thereof comply with the requirements of this article.

(Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1103)

Sec. 9.02.134 Building permits required in newly annexed territory

No person shall erect, excavate, construct, or proceed or continue with the erection or construction of any building or structure or add to, enlarge, move, improve, alter, repair, convert, insulate or extend or demolish any building or structure or cause the same to be done in any newly annexed territory to the city without first applying for and obtaining a building permit therefor from the city secretary or the city council as may be required herewith. (Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1104)

Sec. 9.02.135 Permitted buildings in newly annexed territory

In a territory newly annexed to the city, no permit for the construction of a building shall be issued by the city secretary other than a permit which will allow the construction of a building permitted in the "R-1" district unless and until such territory has been classified in a zoning district other than "R-1" district by the city council in the manner prescribed by this article. (Ordinance 66-7 adopted 12/19/1966; 1989 Code, sec. 21.1105)