

## **ARTICLE I. - GENERAL PROVISIONS**

### **Sec. 56-1. - Short title.**

This ordinance shall be known and may be cited as the "City of Port Lavaca Zoning Ordinance" or "this Ordinance".

### **Sec. 56-2. - Jurisdiction.**

This Ordinance applies to all land within the regular municipal boundaries of Port Lavaca.

### **Sec. 56-3. - Purpose.**

This Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of Port Lavaca. More specifically, this ordinance provides for the division of land into different districts that, in combination with regulations pertaining to such districts, are designed in accordance with the comprehensive plan to achieve objectives that include, but are not limited to, the following:

- A. Promote the beneficial and appropriate development of all land and the most desirable use of land in accordance with the Port Lavaca Comprehensive Plan.
- B. Protect the character and the established pattern of the Land Use District in each area;
- C. Prevent or minimize future land use incompatibilities and conflicts among different land uses;
- D. Maintain property values by stabilizing expectations and ensuring predictability in development;
- E. Establish a process that effectively and fairly applies the regulations and standards of this Ordinance and respects the rights of property owners and the interests of citizens;
- F. To enhance the scenic beauty, aesthetics of the planning jurisdiction; and,
- G. Preserve, protect, and maintain the environmental health of the community; in regards to air, water, soil, and light quality

### **Sec. 56-4. - Definitions.**

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

*Accessory building* means:

- (1) In a residential district, a subordinate building that is attached to or detached from the main building on the same lot or parcel of land, without separate utilities, not used for commercial purposes, and not rented which serves a purpose that is customarily

associated with the principal use. Examples of accessory buildings include a washroom, a storage room for domestic storage only, and a space for one or more automobiles,

(2) In other districts, a subordinate building, the use of which is incidental to and used only in conjunction with the main building on the same lot or parcel of land.

*Accessory use* means a use subordinate to the principal use of a building or lot and serving a purpose customarily incidental to the principal use.

*Administrative Officer* means the official appointed by the city manager to administrate and enforce this chapter.

*Agent of owner* means any person who can show certified written proof that he is acting for the property owner.

*Apartment* means a room or suite of rooms in an apartment house arranged, designed or occupied as a residence by a single family, individual or group of individuals.

*Apartment house* means any multiple-family dwelling or building, or portion thereof, that is designed, built, rented, leased, let or hired out to be occupied as three or more apartments or which is occupied as the home or residence of three or more families living independently of each other and maintaining separate cooking facilities.

*Beginning of construction* means the incorporation of labor and material within the foundation of the building.

*Building* means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, property, or business activity, and includes any structure used or intended to be used for supporting or sheltering a use or occupancy. When such a structure is divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building.

*Building line* means a line parallel or approximately parallel to a lot line or street line and beyond which buildings may not be erected.

*Building, main,* means a building in which is conducted the principal use of the site on which it is located. In any residential district, any and all dwellings shall be deemed to be main buildings on the site on which they are located.

*Clinic, medical,* means an institution or station for the examination and treatment of ill and afflicted out-patients.

*Convalescent home* means any structure used for or occupied by persons recovering from illness or suffering from the infirmities of old age.

*Court* means an open, unoccupied and unobstructed space, other than a yard, on the same lot with the building or group of buildings.

*Coverage of a lot* means the ratio of gross floor area of the first floor of a building or a group of buildings on the same lot to the area of the lot, expressed as a percentage.

*Day nursery* means a place where children are left for care between the hours of 7:00 a.m. and 12:00 p.m.

*Detached structure* means any building, accessory building or structure that is not physically attached to any other building or structure by any means.

*District* or *zoning district* means a portion of the territory of the city within which certain uniform resolutions and requirements or various combinations thereof apply under the provisions of this chapter.

*Dwelling* means a building which contains at least one dwelling unit, and used exclusively for residential purposes, but not including tents, trailers, recreational vehicles, or mobile homes.

*Dwelling, duplex*, means a dwelling designed for and used by two families, each having its own dwelling unit.

*Dwelling, multiple-family*, means a dwelling designed for and used by three or more families, each having its own dwelling unit.

*Dwelling, single-family*, means a dwelling designed for and used exclusively by one family.

*Dwelling unit* means a single unit providing complete, independent living facilities for one or more persons including provisions for living, sleeping, eating, cooking and sanitation, and in full compliance with the city's minimum housing standards.

*Family* means a person living alone, or two or more persons living together as a single housekeeping unit in a dwelling unit and in which not more than four individuals are unrelated by blood.

*Floor area of a building* means the sum of the gross horizontal areas of the several floors of a building, measured from the centerlines of exterior walls or from the centerline of walls separating two buildings in square feet.

*Frontage* means the total length of the line or curve of a lot boundary that is coterminous with a street right-of-way line. For corner lots, frontage may be calculated for each street.

*Grade, existing*, means the average level of the original surface of the ground adjacent to the exterior walls of the building.

*Hotel/motel* means a building or group of buildings, including either separate units or a row or rows of units that contain living or sleeping accommodations primarily for transient occupancy, and have individual entrances.

*Lot* includes the terms "plot" and "parcel" and means one piece, parcel or tract of land that collectively meets all the following requirements:

- (1) Is located in a single block;
- (2) Has frontage on an accepted and improved public street;
- (3) Is occupied or utilized or designated by its owner or developer to be occupied, developed or utilized as a unit for a principal use and uses accessory thereto, together with such open spaces as are required by this chapter; and
- (4) A plat of which has been recorded in the office of the county clerk.

*Lot, area of,* means the net area of the lot and shall not include portions of streets and alleys.

*Lot depth* means the mean horizontal distance between the front lot line and rear lot line of a zoning lot.

*Lot line* means a boundary of a lot.

*Lot line, front,* means the street right-of-way line at the front of a lot.

*Lot line, rear,* means the lot line opposite and most distant from the front.

*Lot line, side,* means a lot line which is not a front lot line or rear lot line. A side lot line separating a lot from a thoroughfare other than an alley is an exterior side lot line as opposed to an interior side lot line.

*Lot width* means the mean horizontal distance between the side lot lines of a lot.

*Manufactured home* means a HUD-Code manufactured home or a mobile home and collectively means and refers to both.

*Manufactured home, HUD-Code,* means a structure constructed on or after June 15, 1976, according to the rules of the federal department of housing and urban development transportable in one or more sections that, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected onsite, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the home's plumbing, heating, air conditioning, and electrical systems.

*Manufactured home park* means a tract of land, not less than three acres in size, under single or common ownership, that is designed and improved to contain five or more sites available for long-term lease or rent to the public for the placement of manufactured homes, and that may include private streets, buildings, and other facilities and services for common use by the residents, meeting all requirements of this chapter.

*Mobile home* means a structure that was constructed before June 15, 1976, transportable in one or more sections that, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected in site, is 320 or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation

when connected to the required utilities, and includes the home's plumbing, heating, air conditioning, and electrical systems.

*Multi-wide HUD-Code manufactured home* means a HUD-Code manufactured home in which the narrowest exterior wall is no less than 14 feet in width when assembled, transportable in two or more sections.

*Nursing home* means any premises where more than three persons are lodged and furnished with meals and nursing care.

*Open space* means an area included in any side, rear or front yard or any other unoccupied space on a lot that is open and unobstructed to the sky.

*Recreational vehicle* means a vehicular-type portable structure without a permanent foundation that can be towed, hauled, or driven which is designed as a temporary living accommodation for recreational, camping, and travel use, and which includes, but is not limited to, travel trailers, truck-campers, camping trailers, and self-propelled motor homes. Except as provided in Chapter 12, for use in conjunction with a temporary event or business activity otherwise allowed, and not to exceed 30 days, or parked on a lot with an otherwise conforming residence or business, and located on the lot for not longer than 14 days, the use of a recreational vehicle as a dwelling, other than within a recreational vehicle park, is prohibited.

*Recreational vehicle park* means any parcel or tract of land, not less than three acres in size, under single or common ownership, that is designed and improved to provide two or more camping unit sites that are offered for the use of the public by rent or lease, and that may include private streets, buildings, and other facilities and services for common use by the residents, meeting all requirements of this chapter. Recreational vehicle park sites are designed and intended to accommodate recreational vehicles only.

*Setback line* means that line which is parallel to and the minimum allowable horizontal distance from a given point or line or reference, such as a lot line, to the minimum required building line.

*Sexually oriented business* means any business that includes a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise, the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

*Sign* means any structure or part thereof, or any device attached to, painted on or represented on a building or other structure, upon which is displayed or included any letter, work, model, banner, decoration, device, or representation used as, or which is in the nature of, an announcement, direction, advertisement, or other attention-directing device.

*Sign, area of*, means the total exterior surface computed in square feet of a sign having but one exposed exterior surface; the aggregate exposed exterior surface computed in square feet of a sign having more than one such surface.

*Story* means that portion of a building included between the surface of any floor and the ceiling next above it.

*Street* means any thoroughfare other than an alley.

*Street line* means a dividing line between a street right-of-way and an abutting lot, tract, or parcel of land.

*Structural alteration* means any change in the structural members of a building, such as walls, columns, beams, or girders.

*Structure* means anything constructed, the use of that required permanent location on the ground or attachment to something having a permanent location on the ground.

*Townhouse* means a single-family dwelling constructed in a series or group of attached units with property lines separating each unit.

*Townhouse, private yard*, means an area of open space within a townhouse but which is unoccupied and unobstructed by any portion of a structure.

*Used and occupied* include the phrase "intended, designed or arranged to be used or occupied."

*Yard* means an open, unoccupied space other than a court on the lot in which a building is situated that is unobstructed from the ground to the sky.

*Yard, front*, means an open, unoccupied space on a lot facing a street and extending across the front of a lot between the side yards and being the minimum horizontal distance between the street line and the main building.

*Yard, rear*, means an open space unoccupied and unobstructed extending across the rear of a lot from one side lot line to the other side lot line and being the minimum horizontal distance between the rear lot line and the main building.

*Yard, required front*, means an open space extending the full width of a lot between the front line and the front setback line, unoccupied and unobstructed from the ground upward except as otherwise specified elsewhere in this chapter.

*Yard, required rear*, means an open space extending the full width of the lot between the rear lot line and the rear setback line, unoccupied and unobstructed from the ground upward except as otherwise specified elsewhere in the chapter.

*Yard, required side*, means an open space extending from the minimum front yard setback line to the minimum rear yard setback line between the side yard setback line and the nearest side lot line, unoccupied and unobstructed from the ground upward except as otherwise specified elsewhere in this chapter.

*Yard, side*, means an open, unoccupied space on the same lot with a building, situated between the building and side line of the lot, and extending through from the front yard to the required rear yard. Any lot line not the rear line or a front line shall be deemed a side line.

*Zoning map, official*, means the zoning map or maps of the city attested together with all amendments subsequently adopted.

**Sec. 56-5. – Provisions of Chapter Declared to be Minimum Standards; Conflicts.**

In interpreting and applying the provisions of this Ordinance, these provisions shall be held to be the minimum requirements for the promotion of the public safety, health, environment, convenience, comfort, morals, prosperity and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or laws, including private deed restrictions and covenants, the more restrictive or that imposing the higher standards shall govern; however, the City shall have no obligation to review or enforce private deed restrictions or covenants.

**Sec. 56-6. – Official Zoning Map.**

*A. Adoption by reference; certification required.* The City Council has divided the city into zones or districts as shown on the official zoning map that, together with all explanatory matter thereon, is adopted by reference into this section. The official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and bearing the seal of the city under the following words: "This is to certify that this is the official zoning map of the city referred to in the official City Code."

*B. Changes to map.* No changes of any nature shall be made on the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change is a violation of this chapter. If authorized changes are made in district boundaries or other matter portrayed on the official zoning map in accordance with the provisions of this chapter, such changes shall be made on the official zoning map promptly after the amendment has been approved by the City Council. The amending ordinance shall provide that such changes or amendments shall not become effective until they have been duly entered upon this official zoning map. The entry shall be signed by the mayor and attested by the city clerk.

*C. Original map controlling over copies in the event of conflicts.* Regardless of the existence of purported copies of the official zoning map that may from time to time be made or published, the official zoning map, located in the office of the city clerk, shall be the final authority as the current zoning status of land, building and other structures in the city.

*D. Adoption of new zoning map.* In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original, this chapter or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the mayor, attested by the city clerk, and

bearing the seal of the city under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map previously adopted by the city."

**Sec. 56-7. - Compliance With These Regulations.**

A. No land shall be used except for a purpose permitted in the district in which it is located.

B. No building shall be erected, reconstructed, moved or structurally altered or used for any purpose other than permitted in the district in which such building is located.

**Sec. 56-8. - Effective Date.**

The effective date of this Ordinance shall be **TBD**

**Sec. 56-9. - Severability.**

If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is, for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this Ordinance shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof, or provisions or regulations contained herein, shall become inoperative or fail by reason of any unconstitutionality of any other portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

(Ord. No. 1001, § 1, 4-1-18)

**Sec. 56-10. - Transitional Provisions.**

A. Previously Approved Plats. Nothing in this Ordinance shall limit or modify the rights of any person to complete any subdivision project which has received prior plat approval under existing subdivision regulations in place at that time. Such project should otherwise meet at least one (1) of the following criteria:

1. Any subdivision created by plat and recorded before the effective date of this Ordinance and has remained undeveloped.
2. Plats that were recorded before the effective date of this Ordinance and development has commenced and is continuing in good faith.
3. A. complete application for preliminary plat and/or conceptual plan approval filed with the City prior to adoption of this Ordinance and any plat currently under review by the City before adoption of this Ordinance.

B. Expired Plats. Expired plats shall conform to current City regulations and construction standards.

C. Nothing in this Ordinance shall limit or modify the rights of any person to continue a use approved by City Council prior to the effective date of this Ordinance, subject to any and all of the conditions specified in such approval.



D. New Development Applications. The land use districts in the currently adopted Port Lavaca comprehensive plan prior to the effective date of this Ordinance shall be converted in accordance with the following table:

| PREVIOUS DISTRICT          | NEW BASE ZONING DISTRICTS           |
|----------------------------|-------------------------------------|
| Low Density Residential    | R-1 Low Density Residential         |
| Medium Density Residential | R-2 Medium Density Residential      |
| High Density Residential   | R-3 High Density Residential        |
| Multi-Family               | R-4 Multi Family Residential        |
| Manufactured Home Park     | M-1 HUD-Code Manufactured Home Park |
| Mixed Use                  |                                     |
| Commercial                 | C-1 Commercial                      |
|                            | C-2 Commercial                      |
| Light Industrial           | I-1 Light Industrial                |
| Industrial                 | I-2 Industrial                      |
| Parks and Open Space       | PR Public and Recreation            |
| Public/Semi-Public         | PR Public and Recreation            |
|                            | PUD Planned Unit Development        |

**Sec. 56-11---56-34. – Reserved.**

**ARTICLE II. – DISTRICT REGULATIONS**

**DIVISION 1. - GENERALLY**

**Sec. 56-35. - Zoning District Intent Statements.**

A. *Purpose.* Zoning district intent statements are provided for the following purposes:

1. To indicate the general nature of permitted and prohibited uses;
2. To indicate the nature and intensity of uses permitted;
3. To assist with interpretation of ordinance requirements applicable to a specific zoning district;

4. To indicate the necessity for adequate public services, including roads, potable water, sanitary sewer, drainage, etc.; and
5. To Preserve, protect, and maintain the environmental health of the community; in regards to air, water, soil, and light quality.

**Sec. 56-36. – District Regulations are minimum and to be applied uniformly.**

The regulations set by this article within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as otherwise specifically provided in this chapter.

**Sec. 56-37. – Districts Established.**

- A. Port Lavaca Comprehensive Plan adopted on September 12, 2016, containing a Future Land Use Map that included both land-use types and Districts where a variety of standard land use districts are recommended. Additionally, while not defining specific districts for the waterfront, the Plan did recommend the development of a waterfront ordinance. The intent of the districts identified below is to provide consistent land-use with the City's Comprehensive Plan, for the classification of land uses in areas where such uses will be consistent with existing or proposed surrounding land uses.
- B. For the purpose of this Ordinance, the City of Port Lavaca is hereby divided into the following districts:
- C. Base Zoning Districts
  1. R-1 District: Low Density Residential District.
  2. R-2 District: Medium Density Residential District.
  3. R-3 District: High Density Residential District.
  4. R-4 District: Multi-Family Residential District.
  5. M-1 District: HUD-Code Manufactured Home Park District.
  6. PUD District: Planned Unit Development District.
  7. C-1 District: Commercial District.
  8. C-2 District: Commercial District.
  9. I-1 District: Light Industrial District.
  10. I-2 District: Industrial District.

11. I-3 District: Coastal Industrial District.
12. PR District: Public and Recreation District.

D. The location and boundaries of the districts established here are shown on the Official Zoning Map, which is hereby incorporated into this Ordinance. The Map, together with all its notations, references and other information and any amendments, shall be as much a part of this Ordinance as if fully set forth and described here. The Official Zoning Map is on file in the Office of the City Clerk, and copies are available from the Development Services Department.

**Sec. 56-38. - Rules for Interpretation of Boundaries.**

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

- A. Boundaries indicated as approximately following the centerlines of streets, highways or alleys; platted lot lines; city limits; railroad centerlines; banks or centerlines of banks, streams, rivers, canals, lakes or other bodies of water shall be construed to follow such lines.
- B. Boundaries indicated as parallel to or extensions of features indicated in subsection (1) of this section, shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- C. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not otherwise covered in this section, the board of adjustments shall interpret the district boundaries.

**Sec. 56-39—56-65. – Reserved.**

**DIVISION 2. – RESIDENTIAL DISTRICTS**

**Sec. 56-66. – Purpose and Intent**

It is the intent of the zoning regulations to provide for the establishment of residential districts that are free from the encroachment of commercial or manufacturing uses, but which permit certain uses that are necessary within residential neighborhoods.

**Sec. 56-67. – R-1 Residential Districts.**

- A. R-1, Low Density Residential: The “R1” district is designed to establish peaceful low density neighborhoods containing single family dwellings. The density for R-1, Low Density Residential shall consist of no more than four (4) dwelling units per acre. This zone will encourage development of attractive residential areas that provide a sense of

community, establish a pedestrian-friendly atmosphere and provide public and community facilities. The following uses are permitted within the R-1, Low Density Residential:

1. A single-family dwelling, specifically excluding manufactured homes.
2. Accessory building for storage residential only and meeting all requirements of this chapter.
3. An enclosed storage building for residential storage only and meeting all requirements of this chapter.
4. Automobile parking, for residents and guests only.
5. Cellular, Radio or television broadcasting transmitter or tower, microwave relay tower.
6. Field crops, horticulture, nursery, truck gardening, but not including retail sales on the premises.
8. Golf courses and golf clubs, but no commercial miniature courses or driving ranges.
9. Any public building erected or used by the city, county, state or federal government.
10. Public utilities.
11. Schools; kindergarten, elementary, high, college and universities, public or denominational.
12. Signs, identification, of resident or permitted use, real estate, sales, lease, rent, development.
13. Swimming pool, private.
14. Railroad right-of-way, but not including shops and yards.
15. Tract offices and construction buildings which shall be removed upon completion or abandonment of construction work.
16. Home occupations as described in subsection (I) of this section.
  - (a) Home occupations in R-1 districts are limited to any occupation that is customarily carried on at a place of residence that does not involve a structural change in the dwelling unit or in a building accessory to the dwelling unit, that does not require the employment of help other than members of the immediate household. The occupation cannot store material, inventory, or product outside or result in fumes, odors or noises that create a nuisance. The following uses shall not be permitted as home occupations unless approved as specific use permits:

- (i) Any office in which chattels, goods, wares, or merchandise are commercially created, exchanged, or sold on site.
- (ii) Barbershops or beauty shops; beauty schools.
- (iii) Commercial stables or kennels.
- (iv) Medical offices for the treatment of patients.
- (v) Commercial automobile repairs, motor vehicle repair of more than one vehicle.
- (vi) Small engine repair.
- (vii) Childcare of more than six children under 14 years of age.

B. R-2, Medium Density Residential: Any use permitted in the R-1 district. The R-2 district is designed to establish peaceful moderate density neighborhoods containing single family dwellings and duplexes. The density for R-2, shall consist of no more than (8) dwelling units per acre. This zone will encourage development of attractive residential areas that provide a sense of community, establish a pedestrian-friendly atmosphere, and provide public and community facilities.

C. R-3, High Density Residential: Any uses permitted in the R-2 district. The R-3 district is designed to establish high density neighborhoods containing single family homes, duplexes, triplexes, and tiny homes. The density for R-3, shall consist of no more than (10) dwelling units per acre. This zone is to establish areas for higher residential densities with easy pedestrian access to commercial areas and public facilities.

D. R-4, Multi-Family Residential: Any use permitted in the R-3 district. The R-4 district is designed for the development of apartments, condominiums, townhouses, or other group dwellings with provisions for adequate light, air, open space and landscaped areas. The density for R-4, shall consist of no more than (21) dwelling units per acre.

E. M-1, HUD-Code Manufactured Home Park: To establish and preserve areas for manufactured home parks to provide a satisfactory living environment for those living in manufactured homes. The maximum density for Manufactured Home Park M-1 shall consist of no more than (10) dwelling units per acre.

F. PUD, Planned Unit Development: To provide pedestrian-friendly development that blends two or more land-use types, including Commercial (C-1), Public & Recreation (PR), and Residential Districts (R1, R2, R3, R4). The intent is to encourage, consistent with the City's comprehensive plan, the use of innovative and creative development techniques to benefit the city and to provide a mixture of residential and nonresidential uses in a manner that preserves natural resources, encourages non-vehicular circulation, provides a sense of community, and allows the use of flexible development standards.

**Sec. 56-68---56-78. – Reserved.**

## **DIVISION 3. – BUSINESS, COMMERCIAL, AND INDUSTRIAL DISTRICTS**

### **Sec. 56-79. - C-1 Commercial districts.**

A. *Purpose and Intent.* The C-1 district consist mainly of land occupied by or suitable for the retailing of convenience goods and the furnishing of certain personal services to satisfy most of the daily needs of the neighborhood. C-1 districts also provide space for personal services.

1. *Outdoor Storage Prohibited.* It is also the intent of this section to exclude from the C-1 districts those uses that require outdoor storage of goods, materials, supplies and equipment. Any use listed below that requires outdoor storage in conflict with this section shall be restricted to C-2 Commercial Districts.

2. The following uses are permitted within C-1 districts:

- (a) Any use permitted in R-3 districts.
- (b) Bakeries, retail sales only.
- (c) Banking and Financial Institutions.
- (d) Bed and breakfast lodgings.
- (e) Business services.
- (f) Clubs or Lodges.
- (g) Eating Establishments (Indoor Only)
- (h) Florist or nursery (outside sales and plant storage permitted).
- (i) Gasoline Service Stations.
- (j) Laundry and Dry-Cleaning Pickup Stations.
- (k) Office and office buildings.
- (l) Medical clinic, dental clinic, and associated laboratory facilities.
- (m) Limited repair, or assembly, of miscellaneous items, including home appliances, jewelry, clothing, computers.
- (n) Personal services including barber shops, beauty salons, photographic and artist studios, tailoring, and similar personal services.
- (o) Professional Services.

**Sec. 56-80. - C-2, Commercial**

Any uses permitted in the C-1 district. The C-2 district is designed to provide, consistent with the City's comprehensive plan, locations for a wide range of certain retail, wholesale, service, and business activities that are not generally appropriate or compatible next to residential districts. This district is designed to permit development of the enumerated functions and to provide space for uses oriented to regional trade areas, but not so intensive as to restrict them to an industrial district.

**Sec. 56-81. - I-1, Light Industrial District**

Any use permitted in the C-2 district. The I-1 district establishes and preserves areas for industrial and other uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses. Light industries require only a small number of raw materials, area and power and do not create smoke, gas, odor, dust, noise, vibration of earth, soot or lighting to a degree that is offensive when measured at the property line of subject property.

**Sec.-56-82. - I-2, Industrial District**

Any use permitted in the I-1 district. The I-2 district provides areas for the development and operation of industrial, distribution, and manufacturing uses which, by nature of their intensity, may be incompatible with other types of land uses. Because of the nature of the products or character of activities, uses within this district will likely produce greater than average negative visual qualities and external effects involving noise, fumes, noxious odors, glare, or other atmospheric influence beyond the boundaries of the property on which the use is located. Industrial districts are to be located adjacent to major transportation facilities, including freeways, waterways, arterials, collectors, railroads, etc. Industrial districts are to provide additional setback or buffer areas to minimize objectionable impacts on adjacent property.

**Sec. 56-83 – PR, Public and Recreation**

Land that has been reserved for the purpose of formal and informal sport and recreation, preservation of natural environments, provision of green space and storm water management. Parks and open space vary in size, form and the functions that they perform.

**Sec. 56-85. - Proposed Uses.**

The Administrative Officer shall determine if the proposed use is allowed in a particular district and if the proposed use requires a Specific Use Permit. The Administrative Officer shall use the intent statement of the particular district for which the proposed use would be conducted in. Comparison of proposed and listed uses shall focus on the following characteristics:

- A. Relative amount of site area or floor space and fixed equipment.
- B. Relative amount of sales

- C. Type of customers.
- D. Relative number of employees.
- E. Days and hours of operation.
- F. Building and site arrangement.
- G. Vehicles, rolling equipment, trailers and portable equipment used.
- H. Relative number of vehicle trips generated and parking.
- I. Building and site storage.
- J. Likely impact on surrounding properties.
- K. Whether the activity is likely to be found independent of the other uses on the site.

**Sec. 56-86. - Accessory Uses.**

Accessory uses are allowed by right in conjunction with a principal use. Accessory uses are subject to the same regulations as the principal use.

**Sec. 56-87---56-109. – Reserved.**

**ARTICLE III. – NONCOMFORMING LOTS, STRUCTURES, AND USES**

**DIVISION 1. – GENERALLY.**

**Sec. 56-110. – Purpose and Intent.**

- A. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures that were lawful before this chapter was passed or amended but are prohibited, regulated, or restricted under the terms of this chapter or future amendment and, therefore, nonconforming.



- B. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their use. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved.
- C. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same districts.

**Sec. 56-111 – Preservation of Rights in Pending Litigation and Violations.**

By adoption of the ordinance from which this chapter is derived, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this chapter that no offense which was committed, and no liability, penalty of forfeiture, either civil or criminal, incurred prior to the time this chapter was repealed and recreated, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed.

**Sec. 56-112. - Exception for nonconformities under construction.**

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, constructed or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been diligently carried on. The term "actual construction" as used in this section means the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

**Sec. 56-113. - Repairs and maintenance.**

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding fifty percent of the current replacement value of the building, provided that the cubic content of the buildings as it existed at the time of passage or amendment of this chapter shall not be increased.
  
- B. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official of the city whose responsibilities are directly involved upon order of such official charged with protecting the public safety.

**Sec. 56-114. - Uses permitted by exception not deemed nonconforming.**

Any use for which an exception is permitted as provided in this chapter shall not be deemed a nonconforming use but shall without further action be deemed a conforming use in such district.

**Sec. 56-115. - Fees, charges, and expenses.**

The city council has established fees associated with this chapter as provided in the city fee schedule and a collection procedure for building permits, amendment applications, appeals and other matters pertaining to this chapter. No permit, amendment, special exception or variance shall be issued unless or until all applicable costs, charges, fees or expenses have been paid in full. Further, no action shall be taken, or public hearing be held unless or until preliminary charges and fees have been paid in full.

**Sec. 56-116---56-132. – Reserved.**

**DIVISION 2. – SPECIFIC NONCONFORMITIES**

**Sec. 56-133. – Lots of Record.**

In a district where single-family dwellings are permitted, a single-family detached dwelling may be erected on a lot of official record at the effective date of adoption or amendment of this chapter, irrespective of its area or width, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard dimensions and other requirements shall be obtained only through action of the board of adjustment.

**Sec. 56-134. – Land Uses.**

If, at the effective date of adoption or amendment of this chapter, lawful use of the land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, provided that:

- A. No such nonconforming use shall be enlarged or increased, nor shall be extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
- C. If any such nonconforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

**Sec. 56-135. – Structures.**

If a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of the ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, provided that:

- A. No such structure may be enlarged or altered in any way which increases its nonconformity.
- B. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- C. Should such structure be moved for any reason for any distance, it shall conform to the regulations for the district in which it is located after it is moved.

**Sec. 56-136. – Structure Uses.**

If a lawful use of structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, provided that:

- A. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of a structure or structure and premises, may be changed to another nonconforming use provided that the board of adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of adjustments may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall conform to the regulations for the district in which such structure is located, and the nonconforming use may not be resumed.
- E. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period, the structure, or structure and premises in combination, shall not be used except in conformance with the regulations of the district in which it is located.

**Sec. 56-137. - Combined Nonconforming Structure and Land.**

If a nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**Sec. 56-138—56-158. - Reserved.**

**ARTICLE IV. – ADMINISTRATIVE AND ENFORCEMENT**

**DIVISION 1. – GENERALLY**

**Sec. 56-159. – Administrative Officer**

- A. *Designated Officer.* The City Manager shall appoint the Administrative Officer of this Ordinance.
- B. *Powers and Duties.* The Administrative Officer or a designated person shall be responsible for the following powers and duties with regard to this Ordinance:
  1. Review and final action on pre-development permits, building permits, certificates of occupancy, and written interpretations of this Ordinance.
  2. Review and make recommendations to the Planning and Zoning Commission on specific use permits, planned unit developments, subdivisions, text amendments to this Ordinance, and map amendments or re-zonings
  3. The Administrative Officer may consult with the City Engineer, Building Official, Fire Chief, Public Works Director, Planner, Economic Development Director for the purpose of reviewing land development plans.
  4. If the Administrative Officer finds that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such

violations, including the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

5. Any other powers and duties as may be assigned by the City Manager.

**Sec. 56-160. - Complaints Regarding Violations.**

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrative Officer. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

**Sec. 56-161. - Violations and penalties.**

- A. Violation of the provisions of this chapter or failure to comply with any of its requirements shall be guilty of a Class C misdemeanor.
- B. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and shall be guilty of a Class C misdemeanor.
- C. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

**Sec. 56-162---56-182. – Reserved.**

**DIVISION 2. – SPECIFIC USE PERMITS**

**Sec. 56-183. - Uses that may be subject of specific use permits.**

The city council of the city may, after public hearing and proper notice to all parties affected, and after recommendation from the planning and zoning commission containing such requirements and safeguards as are deemed necessary to protect adjoining property, authorized by ordinance the location of any of the following in the following specified districts:

- A. Airport, landing field or heliport in any district.
- B. Cemetery or mausoleum.
- C. Drive-in theater in any district, minimum lot size ten acres.

- D. Hospital, convalescent home, nursing home, retirement center, maternity home, boarding house, or similar uses in any district; or on a minimum of five acres, penal or correctional institution, jail, prison, substance abuse facility, social rehabilitation facility, halfway house, psychiatric care facility, or similar uses in any district.
- E. Veterinarian, Animal Hospital and Kennels
- F. Institutions of a religious or philanthropic nature in any district.
- G. Recreational Vehicle Parks

**Sec. 56-184. - Recommendations of planning and zoning commission.**

The planning and zoning commission may, within its discretion, recommend to the city council that a specific use permit be denied or that it be granted or granted with such conditions as permitted in this section.

**Sec. 56--185. - Conditional permits.**

- A. *Authority of city council to impose.* In granting a specific use permit, the city council may impose conditions that must be complied with by the grantee before a certificate of occupancy may be issued by the Administrative Officer for the use of the buildings on such property pursuant to the specific use permit.
- B. *Compliance with conditions required for issuance of certificate of occupancy.* Such conditions shall not be construed as conditions precedent to the granting of the specific use permit for a change in zoning for such property but shall be construed as conditions precedent to granting of the certificate of occupancy.
- C. *Regulatory measures that may be included as permit conditions.* The following are regulating measures that may be included in the conditions of a specific use permit:
  - 1. Parking stipulations.
  - 2. Site plan modifications.
  - 3. Approval of means of ingress and egress.
  - 4. Approval of building size and location.
  - 5. Control of outside lighting and screening.
  - 6. Special setbacks and/or building lines.
  - 7. Surfacing of parking areas and drives.
  - 8. Installation of curbs and drainage structures.
  - 9. Approval of use or uses permitted.
  - 10. Limit the terms and establish expiration dates for specific use permits.

**Sec. 56-186. - Permits to be specific to persons or property.**

A specific use permit shall be applied to either a specific owner/operator or to a specific lot, group of lots or tract upon adoption.

**Sec. 56-187. - Granting does not amend zoning ordinance.**

A specific use permit granted under the provisions of this article shall not be considered an amendment to the zoning ordinance as applicable to such property.

**Sec. 56-188. - Rescind and termination of specific use permit.**



After notice to the owner of record and a public hearing, city council may rescind and terminate a specific use permit if any of the following occur:

- A. One or more of the conditions imposed by the specific use permit has not been met or has been violated.
- B. Change of ownership/occupancy if the original specific use permit was approved for sole and singular use.
- C. The structure is a "substandard building" pursuant to Chapter 12, Article IV, Code of Ordinances, Port Lavaca, Texas.
- D. The specific use permit was obtained through fraud or deception.
- E. Abandonment of the structure, lease space, lot, or tract of land. "Abandonment" shall be determined if any of the following conditions are found to apply for 90 days or more:
  - 1. The most current occupant surrenders occupancy by vacating or ceasing to operate or inhabit such property.
  - 2. Ad valorem taxes on the property are delinquent.
  - 3. Disconnection or discontinuance of water and/or electrical services to the property.

**Sec. 56-189---56-209. – Reserved.**

### **DIVISION 3. – ZONING BOARD OF ADJUSTMENTS**

**Sec. 56-210. Established.**

- A. *Appointment and removal of members; vacancies.* A board of adjustments is hereby established which shall consist of five members to be appointed by the city council, each for a term of three years. Members of the board of adjustments may be removed from office by the city council for cause upon written charges and after public hearing. Vacancies shall be filled by resolution of the city council for the unexpired term of the member affected.
- B. *Rules; meetings.* The board of adjustments shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the chairperson and at such times as the board may determine. The chairperson, or in his absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- C. *Minutes.* The board of adjustments shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such

fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the board.

**Sec. 56-211. – Procedures for appeals**

- A. Any persons aggrieved, or any official or department of the city affected by any decision of judgment of the Administrative Officer concerning interpretation or administration of this chapter, may appeal such decision or judgment to the board of adjustment. Such appeals shall be taken within a reasonable time, not to exceed ten days or such other period as may be provided by the rules of the board by filing with the Administrative Officer and with the board of adjustments a notice of appeal accompanied by a fee as established by the city council specifying the grounds thereof. The Administrative Officer shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.
- B. The board of adjustments shall fix a reasonable time for the hearing of 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.

**Sec. 56-212. - Stay of proceedings.**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Administrative Officer from whom the appeal is taken certifies to the board of adjustments 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 cases, proceedings shall not be stayed other than by a restraining order that may be granted by the board of adjustments or by a court of record on application, on notice to the Administrative Officer from whom the appeal is taken and on due cause shown.

**Sec. 56-213. - Powers and duties.**

- A. The board of adjustments shall have the following powers and duties:
  - 1. *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Administrative Officer in the enforcement of this chapter.
  - 2. *Exceptions or temporary use permits.* To hear and decide only such exceptions or temporary use permits as the board of adjustments is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether exceptions should be granted; and to grant exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny exceptions when not in harmony with the purpose and intent of this chapter.
  - 3. *Variances.* To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship.

- B. In granting any exception, the board of adjustments may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the exception is granted shall be deemed a violation of this chapter. The board of adjustments shall prescribe a time limit within which the action for which the exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void exception.
- C. The board of adjustments shall include a finding in all final decisions that it is empowered under this chapter to grant the exception, and that the granting of the exception will not adversely affect the public interest.

**Sec. 52-214. - Temporary use permit procedure and requirements.**

- A. An exception of temporary use permit shall not be granted by the board of adjustments unless and until a written application for an exception together with fee is submitted, accompanied by an accurate legal description, maps, site plans, drawings and any necessary data, indicating the section of this chapter under which the exception is sought and stating the grounds on which it is requested.
- B. Notice shall be given of such public hearing to the owner of the property for which the exception is sought or his agent and to all owners of real property lying within 200 feet of the subject property, such notice to be given not less than ten days before the date set for hearing to all such owners who have rendered their the property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing same, properly addressed and postage paid, in the city post office. Notice of the time and place of such hearing shall also be given by one publication in the official newspaper at least 15 days prior to such hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of action taken.
- C. A public hearing shall be held on the application. Any party may appear in person, or by agent or attorney.

**Sec. 56-215. - Variance procedure and requirements.**

- A. A variance from the terms of this chapter shall not be granted by the board of adjustments unless and until a written application for variance together with fee is submitted, accompanied by an accurate legal description, maps, site plans, drawings, and any necessary data, demonstrating that:
  - 1. 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.
  - 2. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

3. The special conditions and circumstances do not result from the actions of the applicant.
  4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
- B. No nonconforming use of neighboring lands, structures or building in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
  - C. Notice of public hearing shall be given in the same manner as required for temporary use permit applications.
  - D. The public hearing shall be held. Any party may appear in person or by agent or by attorney.
  - E. The board of adjustments shall 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. The board of adjustments shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  - F. Under no circumstances shall the board of adjustments grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the districts.

**Sec. 56-216. - Decisions; required vote.**

- A. In exercising its powers, the board of adjustments may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order, requirements, decision or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken.
- B. The concurring vote of four of the members of the board shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to affect any variation in the application of this chapter.

**Sec. 56-217---56-237. – Reserved.**

**DIVISION 4. – AMENDMENTS**

**Sec. 56-238. - Initiation of amendment proceeding.**

The city council may, from time to time, amend this chapter by changing the boundaries of districts or by changing any other provision thereof whenever the public necessity and convenience and general welfare require such amendment. In addition, an amendment proceeding may be initiated by the planning and zoning commission or by an application of one or more owners of property affected by the proposed amendment.

**Sec. 56-239. - Application fee required for property owner-initiated proceedings.**

Each application by a property owner shall be accompanied by a fee in the amount provided in the city fee schedule to cover administrative and processing costs.

**Sec. 56-240. - Documentation to be submitted with application.**

An application for an amendment shall be accompanied by an accurate legal description, maps, site plans, drawings and any data necessary to demonstrate that the proposed amendment is in general conformance with the comprehensive plan of the city and that public necessity, convenience and general welfare require the adoption of the proposed amendment.

**Sec. 56-241. - Public hearing before the planning and zoning commission.**

- A. *Required.* Upon filing of the application, the planning and zoning commission shall call a public hearing on the application as provided herein.
- B. *Notice of hearing.* Written notice of such hearing shall be sent to the owners of property or their agents and to all owners of property lying within 200 feet of the property on which the change in classification is proposed. The notice to be given not less than ten days before the date set for the hearing, to all such owners who have rendered their property for city taxes as the ownership appears on the last approved city tax roll. Notice may be served by regular U.S. Mail. Where property lying within 200 feet of the property proposed to be changed is located in territory which was annexed to the city after the final date for making the renditions which are included on the last approved city tax roll, notice to such owners shall be given in one publication in the official newspaper appearing at least 15 days before the time of hearing. Failure of owners to receive notice of hearing shall in no way affect the validity of action taken.
- C. *Recommendation of commission.* If at the conclusion of the hearing, the planning and zoning commission decides to recommend amendment of this chapter to the city council, the recommendation shall be by resolution of the planning and zoning commission carried by the affirmative votes of not less than a majority of its total membership. A copy of any recommended amendment shall be submitted to the city council and shall be accompanied by a report of findings, summary of hearing and any other pertinent data.
- D. *Recommendation of denial may be appealed to city council.* In the event the planning and zoning commission recommends denial of an application after public hearing, the applicant may appeal the determination to the city council by filing a written notice of

appeal with the city clerk within ten days after the determination of the planning and zoning commission.

**Sec. 56-242. - Review by and final decision of city council.**

- A. *Public hearing; notice.* If the planning and zoning commission has recommended approval of an application, or if the planning and zoning commission has recommended denial of an application and a notice of appeal has been filed pursuant to this division, the city council shall set the application for public hearing and shall give notice of the time and place of the hearing by one publication in the official newspaper appearing at least 15 days prior to such hearing, and in addition shall send written notices to the owners of property lying within 200 feet of the subject property.
- B. *Final action.* The city council may, by simple majority vote, disapprove an application for amendment of this chapter, or in approving an amendment to this chapter, the city council may impose such requirements and conditions or changes as they deem necessary.
- C. *Three-fourths vote of council required for certain actions.* A vote of three-fourths of the city council is required in order to adopt proposed amendments that have been recommended for disapproval by the planning and zoning commission or to adopt proposed amendments that have been recommended for approval by the planning and zoning commission against which a written protest has been filed with the city clerk duly signed and acknowledged by the owners of 20 percent of the land included in the proposed amendment or the owners of 20 percent of the land immediately adjacent to the land included in the proposed amendment and extending 200 feet therefrom.
- D. *Reconsideration after denial.* In case an application for an amendment to this chapter is denied by the city council, the application shall not be eligible for reconsideration for one year subsequent to such denial. A new application affecting or including all or part of the same property must be substantially different from the application denied, in the opinion of the planning and zoning commission, to be eligible for consideration, within one year of the denial of the original application.

**Sec. 56-243. - Joint public hearings authorized, procedure.**

As an alternative to separate hearing before the planning and zoning commission and the city council, the city council may by three-fourths vote call for a joint public hearing with the planning and zoning commission and prescribe the type of notice to be given of the time and place of the hearing.