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City of Baytown, Texas Zoning Ordinance

prepared by:

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Baytown-Style Zoning

This document represents a proposed Baytown-style zoning ordinance. It's not a "typical" zoning ordinance. It takes a simple and straight-forward approach in accomplishing its primary objective—protecting the character of residential neighborhoods while respecting the rights of property owners.

Because the ordinance focuses primarily on ensuring that residential areas are not adversely affected by new development, much of the development that occurs in Baytown is likely to be unaffected by the adoption of Baytown-style zoning regulations. Under the current proposal, most of the city would be zoned into the MU, Mixed Use zoning district, which permits *all* types of uses and essentially allows new development to play by the same rules that applied in the past. Only when nonresidential development or apartment development occurs next to single-family residential areas would new standards apply in the MU district. And those new standards would not be overly restrictive. After all, the intent of Baytown-style zoning is to offer protection to residents and the substantial investment they have in their homes, not to discourage development and economic opportunity.

The regulations in this proposed ordinance would apply only to new development and redevelopment activities, not to uses that are in existence today. Moreover, many of the standards included in the ordinance—things like lot size and building setbacks—are *existing* city requirements.

The Baytown-style approach takes zoning back to its historical roots, to a time when the term "zoning" didn't necessarily conjure up images of over-regulation and bureaucratic red-tape. This draft zoning ordinance includes uncomplicated and reasonable standards that are easy-to-use and administer. It won't require new staff or new revenue sources to administer. And unlike some zoning plans, it doesn't try to second guess the marketplace. It recognizes that real estate investment and economic development are vital to the health and future of the community.

Comments and questions about the proposed Baytown-style zoning ordinance are welcomed. Please direct any inquiries to the Baytown Planning and Community Development Department (713) 420-5394 or James Duncan and Associates (512) 258-7347.

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ARTICLE I.

GENERAL PROVISIONS

- A. **Title.** This ordinance shall be known and may be cited as the “Zoning Ordinance of the City of Baytown” or simply as the “Zoning Ordinance.”
- B. **Authority.** This Zoning Ordinance is adopted pursuant to the powers granted and limitations imposed by the Constitution and laws of the State of Texas, the Charter of the City of Baytown and other provisions of Texas statutory and common law that are relevant and appropriate.
- C. **Applicability.** The provisions of this Zoning Ordinance shall apply to the development of all land within the City of Baytown, unless specifically provided otherwise in this Zoning Ordinance.
- D. **Purpose.** This Zoning Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the citizens of the City of Baytown. It is adopted in accordance with, and is intended to implement, the City's *Interim Comprehensive Plan*, as adopted in 1992. More specifically, this Zoning Ordinance is intended to do one or more of the following:
1. Preserve and enhance the integrity, stability and livability of residential neighborhoods;
 2. Maintain property values by stabilizing expectations and ensuring predictability in development;
 3. Prevent or minimize land use incompatibilities and conflicts among different land uses;
 4. Prevent overcrowding of buildings and sites and excessive concentrations of population or commercial activities;
 5. Encourage commercial revitalization;
 6. Preserve and enhance Baytown's natural environment and avoid natural hazards in the development of the City;
 7. Balance the protection of community and neighborhood resources with the need to promote economic development and protect individual property rights;
 8. Maintain opportunities for development and redevelopment to respond to changes in the marketplace, while respecting the character of surrounding areas; and
 9. Establish a process that effectively and fairly applies the regulations and standards of this Zoning Ordinance and respects the rights of property owners and the interests of citizens.
- E. **Minimum Standards; Conflict with Private Restrictions.** The provisions of this Zoning Ordinance are the minimum standards necessary to accomplish its stated purposes. It is not the intent of this Zoning Ordinance to interfere with, abrogate or annul any private easement, covenant, deed restriction or other agreement between private parties. When the provisions of this Zoning Ordinance impose a greater restriction than imposed by such private agreements, the provisions of this Zoning Ordinance shall control. When private agreements impose a greater restriction than imposed by this Zoning Ordinance, such private agreements shall control.

- F. **Inconsistent Provisions and Conflict with Other Regulations.** In the event that the provisions of this Zoning Ordinance are inconsistent with one another or when the regulations of this Zoning Ordinance conflict with other adopted ordinances or regulations of the City, the more restrictive provisions shall control, unless otherwise specifically stated.
- G. **Zoning Map.** The boundaries of the zoning districts established by this Zoning Ordinance shall be shown on a map or series of maps entitled "Official Zoning Map," an up-to-date copy of which shall be maintained in the office of the Director of Planning and Community Development. Original copies of the official zoning map and all amendments thereto shall be maintained in the City Clerk's office. In case of any dispute regarding the zoning classification of property subject to this Code, the original map maintained by the City Clerk shall control.
- H. **Compliance with Zoning District Standards.** No building or structure shall be erected, converted, enlarged, reconstructed or altered for use, nor shall any building, structure or land be used or changed in such a way that it does not comply with all of the district regulations established by this Zoning Ordinance for the district in which the building or structure or land is located.
- I. **Zoning Classification of Annexed Areas.** Any land which comes under the zoning jurisdiction of the City of Baytown by reason of its annexation to the City shall be classified into the MU zoning district unless the owner or majority of owners of the subject property requests another zoning classification, in which case such property shall be assigned a zoning district classification in accordance with the zoning amendment procedures of Sec. V.C.
- J. **Transitional Provisions.**
1. **Building Permits.** Except as specifically provided, the provisions of this Zoning Ordinance shall not affect any valid building permit issued or any valid building permit application filed prior to ?EFFECTIVE DATE?, provided that construction pursuant to such permit, if and when issued, is commenced within 12 months of the date of issuance of the permit and diligently pursued to completion.
 2. **Subdivision Plats.** Except as specifically provided, the provisions of this Zoning Ordinance shall not affect any preliminary plat or final plat approved pursuant to the regulations of Chapter 27 of the City Code.
- K. **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Zoning Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Zoning Ordinance.

ARTICLE II. DEFINITIONS AND INTERPRETATIONS

A. Rules of Construction.

1. **Meanings and Intent.** All provisions, terms, phrases and expressions contained in this Zoning Ordinance shall be construed in accordance with the Ordinance's stated purposes.
2. **Text.** In case of any difference of meaning or implication between the text of this Zoning Ordinance and any drawing, figure or illustration, the text shall control.
3. **Computation of Time.** The time period within which an act is to be carried out shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday or legal holiday, that day shall be excluded. In the computation of time for public hearing notice, both the first day (day of the advertisement) and the last day (day of the hearing) shall be excluded. Time-related words shall have the meanings ascribed below:
 - a. "Day" means a calendar day unless working day is specified;
 - b. "Week" means seven calendar days;
 - c. "Month" means a calendar month; and
 - d. "Year" means a calendar year, unless a fiscal year is indicated.
4. **Delegation of Authority.** Whenever a provision appears requiring a department head or some other officer or employee to perform an act or duty, it shall be construed as authorizing that department head or other officer to delegate responsibility for performing the required act to other city employees, unless the provision specifies otherwise.
5. **Technical and Non-technical Words.** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a specific meaning in law shall be construed and understood according to such meaning.
6. **Public Officials, Bodies and Agencies.** All public officials, bodies and agencies to which reference is made are those of the City of Baytown unless otherwise indicated.
7. **Mandatory and Discretionary Terms.** The word "shall" is always mandatory. The word "may" is permissive.
8. **Conjunctions.** Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:
 - a. "And" indicates that all items, conditions, provisions or events are connected; and
 - b. "Or" indicates that one or more of the connected items, conditions, provisions or events shall apply.
9. **Tense, numbers and gender.** Words used in the past or present tense include the future as well as the past and present tense, unless the context clearly indicates the contrary. The

singular shall include the plural and the plural shall include the singular, as the context suggests. Words of one gender shall apply to persons regardless of gender.

B. Definitions.

For the purposes of interpreting and administering the provisions of this Zoning Ordinance, the words defined in this section shall be given the meanings set forth below. All other words shall be given their common, ordinary meanings, as the context may reasonably suggest. In case of dispute over the meaning of a term not defined here or over the application of a definition set forth here, the Director of Planning and Community Development shall give an interpretation in accordance with Sec. II.D.

Accessory Use or Accessory Structure means a use or structure that is subordinate to and serves a principal use or structure; is subordinate in area, extent and purpose to the principal use or structure served; contributes to the comfort, convenience or necessity of occupants of the principal use or structure served; and is located on the same lot and in the same zoning district as the principal use.

Arterial street means those streets designated as "arterials" or "future arterials" on the City of Baytown's *Major Thoroughfare Plan*.

Church or place of worship means a site or building in which persons regularly assemble for worship and which is intended primarily for propagating a particular faith or religious belief.

Collector street means those streets designated as "collectors" or "future collectors" on the City of Baytown's *Major Thoroughfare Plan*.

College or university means an institution of higher education offering undergraduate or graduate degrees.

Commission means the Growth Management and Development Advisory Commission.

Day care center means an establishment providing non-medical care, protection and supervision for individuals on a regular basis away from their primary residence for less than 24 hours per day. The term includes nursery schools, preschools and day care centers for adults and children.

Day care, general means a day care center that provides non-medical care, protection and supervision for seven or more individuals on a regular basis for less than 24 hours a day.

Day care, limited means a day care center that provides non-medical care, protection and supervision for no more than six individuals on a regular basis for less than 24 hours a day. This definition includes home-based day care centers, in which the care-giver's home is the site of the day care center.

Density, Gross means the number of dwelling units for each acre of land and which is calculated by dividing the total number of dwelling units in a development by the total acreage of the lot or lots on which the development is located.

District means zoning district.

Dwelling unit means a building or portion of a building, other than a mobile home, that is arranged, occupied or intended to be occupied as living quarters and includes facilities for sleeping, cooking and sanitation.

Detached single-family dwelling means the use of a lot for one dwelling unit that has no physical connection to another dwelling unit or building.

Attached single-family dwelling means the use of a lot for one dwelling unit that is joined to another dwelling at one or more points by a party wall or abutting separate wall.

Duplex dwelling means the use of a lot for two dwelling units within a single building.

Multi-family dwelling means the use of a lot for three or more dwelling units within a single building.

Eating and drinking place means an establishment where the principal business is the sale of food or beverages in a ready-to-consume state. Typical uses include restaurants, bars, lounges, nightclubs and other similar uses.

Heavy industry means establishments engaged in the manufacturing of products from extracted or raw materials or the bulk storage and handling of such products and materials; or a use engaged in storage or manufacturing processes involving flammable, or explosive materials or storage and manufacturing processes that involve potentially hazardous materials or materials commonly recognized as offensive. Uses in this category typically involve a high incidence of truck or rail traffic and outdoor storage of products, materials, equipment or bulk fuel. Heavy industry includes such uses as chemical manufacturing or processing, food processing and packaging plants over 10,000 square feet in size, laundry and dry cleaning plants over 10,000 square feet in size; oil or gas wells and facilities for exploration, production or refining of oil or gas; gas or oil pipeline manufacturing; tank farms, oil or gas storage; slaughterhouses and animal stockyards; concrete, asphalt and tar plants; scrap, junk or metal recovery yards, tire storage or recycling yards; stonework and concrete manufacturing; power generation plants; mining or excavation for commercial purposes; refuse collection, refuse transfer and recycling facilities that are not fully enclosed; sanitary landfills; and other similar uses.

Height, Building means the vertical distance between the average finished grade along the front of a building and: 1) the highest point of the coping of a flat roof; 2) the deck line of a mansard roof; or 3) the mid-point between the eaves and ridge line of a gable, hip or gambrel roof. (See Sec. III.H.2.c.)

Hospital means an institution that is licensed by the State of Texas or operated by an agency of the government to provide medical, surgical, psychiatric or emergency medical services to sick or injured persons, primarily on an in-patient basis. The term "hospital" shall not include "nursing home."

Local street means those streets not designated as "arterials," "collectors," or "freeways" on the City of Baytown's *Major Thoroughfare Plan*.

Lot Area means the total horizontal area within the lot lines of a lot. (See Sec. III.H.2.a.)

Library means a publicly operated facility housing a collection of books, magazines, audio and video tapes or other material for use by the general public.

Light Industry means an establishment engaged in the manufacture of finished products or parts, predominately using previously prepared materials, including processing, fabrication, assembly,

treatment, and packaging of such products, and incidental storage, sales and distribution of such products.

Major thoroughfare means those streets designated as “freeways” or “future freeways” on the City of Baytown's *Major Thoroughfare Plan*.

Mobile home means a structure, movable in one or more sections, which is built upon a permanent chassis and is designed to be used as a dwelling unit with or without a permanent foundation. Such units shall provide all of the accommodations necessary to be considered a “dwelling unit” and shall be connected to all utilities in conformance with applicable regulations. For purposes of these regulations, the term “mobile home,” when used by itself, shall not include “residential-design manufactured housing” as defined and regulated in this ordinance.

Noncomplying structure means buildings and structures constructed prior to ?EFFECTIVE DATE? that do not comply with the setback, height, lot size or other dimensional or property development-related standards of the zoning district in which such buildings or structures are located.

Nonconforming use means uses that were established prior to ?EFFECTIVE DATE? that do not conform to the use regulations of the zoning district in which such uses are located.

Nonresidential means any use other than single-family, duplex or multi-family dwelling units.

Nursing Home means an institution that is licensed by the State of Texas to provide in-patient services for persons needing regular medical attention and bed care services on a 24-hour basis, but excluding hospitals.

Office means an establishment providing executive, management, administrative or professional services, including out-patient medical services.

Park and recreation means a tract of land maintained by the federal, state or local government for the recreation and enjoyment of the general public.

Qualified applicant means the owner or any person having a contractual interest in property that is the subject of an application. It shall also mean the authorized agent of the owner or person having a contractual interest in the property.

Retail means an establishment engaged in the sale or rental of goods, merchandise or services, but excluding eating and drinking places.

Residential-design manufactured housing means a mobile home on a permanent foundation that has minimum dimensions of 22 body feet in width, a pitched roof, and siding and roofing materials that are customarily used on site-built homes within the City of Baytown, and which complies with the design standards of Sec. IV.C. Residential-design manufactured housing units shall be considered single-family dwellings.

Residential neighborhood means: (1) land area included in one or more recorded subdivisions where the predominate land use is or is intended to be single-family residential, or (2) an area with readily identifiable physical boundaries where the predominate land use is single-family residential and where such residential dwelling units have access to local or collector streets.

Safety services means a facility for conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

School means the use of a site for instructional purposes on an elementary or secondary level, approved under the regulations of the state.

Screening means walls, fences, vegetation or landscaped earth berms maintained for the purpose of concealing from view the area behind such fence, vegetation or berms.

Setback means the unobstructed, unoccupied open space between a structure and the property line of the lot on which the structure is located. (See Sec. III.H.2.b.)

Setback, Front means the required setback extending across the full width of a lot, measured from the front lot line.

Setback, Interior Side means the required setback extending the full depth of a lot along the side of a building that is not adjacent to a street or other public right-of-way.

Setback, Rear means the required setback extending across the full width of the lot and measured from the rear lot line.

Setback, Street Side means the required setback extending the full depth of a lot along the side of a building that is adjacent to a street or other public right-of-way.

Utilities, limited means utility facilities that are essential to support development and that involve only very minor structures, such as poles and lines.

- C. **Interpretation of Zoning District Boundaries.** The provisions of this section shall govern interpretations regarding the location of zoning district boundaries shown on the official zoning map.
1. **District Boundaries Following Property Lines.** District boundaries shown as approximately following property lines shall be construed as following such property lines.
 2. **District Boundaries Following Rights-of-Way Lines.** District boundaries shown as approximately following right-of-way lines of a street, highway, alley, railroad or other identifiable boundary shall be construed as following such right-of-way line or identifiable boundary.
 3. **District Boundaries Not Following Identifiable Features.** On unsubdivided land, or in instances where a zoning district boundary follows no identifiable feature, the location of zoning district boundaries shall be determined by using the map scale appearing on the official zoning map, unless the district line is indicated by dimensions printed on the official zoning map, in which case the printed dimensions shall control.
 4. **Street Abandonments.** Whenever any street, alley or public way is abandoned or vacated by official action of the City Council, the zoning districts adjoining each side of such street, alley or public way shall be automatically extended to the center-line of such abandonment or vacation and all area included in the abandonment or vacation shall be subject to the regulations of the extended districts.
 5. **Uncertainties.** Where existing physical or natural features contradict those shown on the official zoning map, or if case any other uncertainty exists, the location of district boundaries shall be determined by the Director of Planning and Community Development.

- D. **Interpretations of Zoning Ordinance Text.** The following regulations shall govern the rendering of written interpretations of the provisions of this Zoning Ordinance.
1. **Authority.** The Director of Planning and Community Development shall have authority to make all written interpretations concerning the provisions of this Zoning Ordinance.
 2. **Request for Interpretation.** A request for interpretation shall be submitted to the Director of Planning and Community Development in a form established by the Director of Planning and Community Development and made available to the public.
 3. **Rendering of Interpretation.** Within ten days after a request for interpretation has been submitted, the Director of Planning and Community Development shall: (1) review and evaluate the request in light of the text of this Zoning Ordinance, the official zoning map, the *Comprehensive Plan* and any other relevant information (2) consult with other staff, as necessary; and (3) render an opinion.
 4. **Form.** The interpretation shall be provided to the applicant in writing and be sent to the applicant by mail.
 5. **Official Record.** The Director of Planning and Community Development shall maintain an official record of interpretations. The record of interpretations shall be available for public inspection during normal business hours.
 6. **Appeal.** Appeals of written interpretations made by the Director of Planning and Community Development shall be taken to the Board of Adjustment. In considering such an appeal, the Board of Adjustment shall consider the interpretation and public testimony in light of the *Comprehensive Plan*, this Zoning Ordinance and the official zoning map, whichever are applicable. The Board of Adjustment shall modify or reject the interpretation only if it is not supported by substantial competent evidence or if the interpretation is contrary to the *Comprehensive Plan*, this Zoning Ordinance or the official zoning map.

ARTICLE III. DISTRICT REGULATIONS

A. **Districts Established.** In order to implement the Baytown *Comprehensive Plan* and promote the purposes of this Zoning Ordinance, the following zoning districts are established.

District Name	Map Symbol
Neighborhood Conservation	NC
Urban Neighborhood	UN
Mixed Use	MU

Zoning districts may be referred to throughout this Zoning Ordinance by their map symbol names.

B. **NC, Neighborhood Conservation District.**

1. **Purpose.** The purposes of the NC Neighborhood Conservation district are to:

- a. preserve and reinforce existing low-density, residential land use patterns and promote high-quality living environments;
- b. ensure the provision of adequate light, air, privacy and open space to serve the needs of residents; and
- c. ensure land use compatibility and protect residential uses from adverse land use impacts that can occur when high-density residential or nonresidential development is located near residential uses.

2. **Permitted Uses.** The following uses shall be permitted by-right in the NC district.

a. **Residential Uses.**

Single-family, detached
Single-family, attached
Duplex

b. **Public or Civic Uses.**

Church or place of worship, subject to the supplementary standards of Sec. III.F.1. (page 15)
Day care, limited, subject to the supplementary standards of Sec. III.F.3. (page 15)
Parks and recreation, subject to the supplementary standards of Sec. III.F.7. (page 15)
Safety services
School, subject to the supplementary standards of Sec. III.F.8. (page 15)
Utilities, limited

c. **Retail, Service and Office Uses.**

Home occupations, subject to the supplementary standards of Sec. III.F.5. (page 15)

3. **Accessory Uses.** Accessory uses shall be allowed in accordance with the standards of Sec. III.G.

4. **Property Development Standards.** Each site in the NC district shall be subject to the following property development standards.

a. Lot Size.

- (1) Single-Family Detached. The minimum lot size for single-family detached dwelling units shall be 5,400 square feet.
- (2) Single-Family Attached. The minimum lot size for single-family attached dwelling units, where permitted, shall be 3,500 square feet.
- (3) Duplex. The minimum lot size for duplex dwellings shall be 6,000 square feet (3,000 square feet per unit).
- (4) Other. The minimum lot size for uses other than single-family detached, single-family attached and duplex dwellings shall be 5,400 square feet.

b. Front Setback. The minimum front setback for all uses in the NC district shall be 15 feet, provided that lots with frontage on arterial streets or major thoroughfares shall have a minimum front setback of 35 feet.

c. Rear Setback.

- (1) Single-Family Detached, Single-Family Attached and Duplex. The minimum rear setback for single-family detached, single-family attached and duplex dwellings shall be ten feet.
- (2) Other. The minimum rear setback for uses other than single-family detached, single-family attached and duplex dwellings shall be ten feet, unless the compatibility standards of Sec. IV.A. impose a greater requirement.

d. Interior Side Setback.

- (1) Single-Family Detached, Single-Family Attached and Duplex. The minimum interior side setback for single-family detached and duplex dwelling units shall be five feet. There shall be no minimum interior side setback for single-family attached dwellings, except that end units shall maintain a minimum interior side setback of five feet.
- (2) Other. The minimum interior side setback for uses other than single-family detached, single-family attached and duplex dwellings shall be five feet, unless the compatibility standards of Sec. IV.A. impose a greater requirement.

e. Street Side Setback. The minimum street side setback for all uses in the NC district shall be ten feet, unless the side street is an arterial street or major thoroughfare, in which case the minimum street side setback shall be 20 feet.

f. Height. The maximum height for all uses in the NC district shall be 35 feet.

C. UN, Urban Neighborhood District.

1. Purposes. The purposes of the UN Urban Neighborhood district are to:

- a. preserve and enhance the viability of older, once predominately residential neighborhoods, while allowing an appropriate mix of land uses;
 - b. promote infill development and redevelopment that is compatible with existing neighborhoods;
 - c. ensure land use compatibility and protect residential uses from adverse impacts; and
 - d. ensure the provision of adequate light, air, privacy and open space to serve residents.
- 2. Permitted Uses.** The following uses shall be permitted by-right in the UN district.
- a. Residential Uses.**
 - Single-family, detached and attached
 - Duplex
 - Mobile home
 - Multi-family
 - b. Public and Civic Uses.**
 - Church or place of worship, subject to the supplementary standards of Sec. III.F.1. (p. 15)
 - College or university, subject to the supplementary standards of Sec. III.F.2. (page 15)
 - Day care, limited, subject to the supplementary standards of Sec. III.F.3. (page 15)
 - Day care, general, subject to the supplementary standards of Sec. III.F.3. (page 15)
 - Library
 - Nursing home, subject to the supplementary standards of Sec. III.F.6. (page 15)
 - Parks and recreation, subject to the supplementary standards of Sec. III.F.7. (page 15)
 - Safety services
 - School, subject to the supplementary standards of Sec. III.F.8. (page 15)
 - Utilities, limited
 - c. Retail, Service and Office Uses.**
 - Home occupations, subject to the supplementary standards of Sec. III.F.5. (page 15)
 - Office, subject to the supplementary standards of Sec. III.F.9. (page 15)
 - Retail, subject to the supplementary standards of Sec. III.F.9. (page 15)
- 3. Accessory Uses.** Accessory uses shall be allowed in accordance with Sec. III.G.
- 4. Property Development Standards.** Each site in the UN district shall be subject to the following property development standards.
- a. Lot Size.**
 - (1) Single-Family Detached. The minimum lot size for single-family detached dwelling units shall be 5,400 square feet.
 - (2) Single-Family Attached. The minimum lot size for single-family attached dwelling units shall be 2,500 square feet.
 - (3) Duplex. The minimum lot size for duplex dwellings shall be 6,000 square feet (3,000 square feet per dwelling unit).

- (4) Multi-Family. The minimum lot size for multi-family developments shall be established by multiplying the number of individual dwelling units by 2,000 square feet. In no case shall a multi-family lot be smaller than 6,000 square feet.
- (5) Other . The minimum lot size for uses other than single-family detached, single-family attached and duplex dwellings, where permitted, shall be 5,000 square feet.

b. Front Setback. The minimum front setback for all uses in the UN district shall be 15 feet, provided that for lots with frontage on arterial streets or major thoroughfares the minimum front setback shall be 35 feet.

c. Rear Setback.

- (1) Single-Family Detached, Single-Family Attached and Duplex. The minimum rear setback for single-family detached, single-family attached and duplex dwellings shall be ten feet.
- (2) Other . The minimum rear setback for uses other than single-family detached, single-family attached and duplex dwellings shall be ten feet, unless the compatibility standards of Sec. IV.A. impose a greater requirement.

d. Interior Side Setback.

- (1) Single-Family Detached, Attached and Duplex. The minimum interior side setback for single-family detached and duplex dwelling units shall be five feet. There shall be no minimum interior side setback for single-family attached dwellings, except that end units shall maintain a minimum interior side setback of five feet.
- (2) Other. The minimum interior side setback for uses other than single-family detached, single-family attached and duplex dwellings shall be five feet, unless the compatibility standards of Sec. IV.A. impose a greater requirement.

e. Street Side Setback. The minimum street side setback for all uses in the UN district shall be ten feet, unless the side street is an arterial street or major thoroughfare, in which case the minimum street side setback shall be 20 feet.

f. Height. The maximum height for all uses in the UN district shall be 40 feet, unless the compatibility standards of Sec. IV.A. impose a more restrictive standard.

D. MU, Mixed Use District.

1. Purpose. The purposes of the MU Mixed Use district are to:

- a. accommodate a wide variety of land uses with minimum development standards; and
- b. provide development opportunities that will strengthen the City's economic base.

2. Permitted Uses. All land uses shall be permitted by-right in the MU district.

3. **Property Development Standards.** No zoning district-based property development standards apply within the MU district, except for single-family attached and detached dwelling units, which shall comply with the property development standards of the UN district. Development within the MU district shall comply with all other applicable Zoning Ordinance provisions.

E. **Use Table.**

The Use Table of this section provides a tabular summary of the land use types permitted within each zoning district. The table is intended for reference only and does not necessarily reflect all of the regulations that may apply to particular uses or zoning districts. In the event of conflict between the Use Table and the regulations found within the individual district sections of this Article (Secs. III.B. through III.D.), the text of the individual district regulations shall control.

1. **Permitted By-Right.** Uses identified with a “P” are permitted by-right and shall be permitted in the corresponding district subject to all other applicable Zoning Ordinance standards and City Code requirements.
2. **Permitted By-Right with Conditions.** Uses identified with a “P/C” are permitted by-right, but shall be permitted in the corresponding district only in compliance with the supplementary use standards referenced in the final column of the table and subject to all other applicable Zoning Ordinance standards and City Code requirements.
3. **Not Permitted.** Uses not identified in a particular district column of the Use Table as permitted by-right are not allowed in such district unless otherwise expressly permitted by other regulations of this Zoning Ordinance.
4. **Conditions.** The final column of the Use Table (“CONDS”) contains references to supplementary use standards applicable to a use in one or more districts. The referenced standards appear in Sec. III.F. (Supplementary use standards).

PERMITTED USE TABLE

Use Type	District		
	NC	UN	MU
Residential			
Single-family, detached	P	P	P
Single-family, attached	P	P	P
Duplex	P	P	P
Mobile home	-	P	P
Multi-family	-	P	P
Public and Quasi-Public			
Church or place of worship	P/C	P/C	P
Day care center, limited	P/C	P/C	P
Day care center, general	-	P/C	P
Hospital	-	-	P
Nursing home	-	P/C	P
Parks and recreation	P/C	P/C	P
Safety/Utility Services	P	P	P
School, College or University	P/C	P/C	P
Retail, Service and Office			
Home occupation	P/C	P/C	P
Office	-	P/C	P
Retail	-	P/C	P
Other Uses			
Eating and drinking place	-	-	P
Heavy industry	-	-	P
Uses not otherwise classified	-	-	P

P = Permitted By-Right

P/C = Permitted by Right, With Conditions

F. Supplementary Use Standards.

No permit shall be issued for any development or use of land unless the activity is in compliance with all applicable supplementary use standards specified in this section. Unless otherwise indicated, the listed standards apply in all zoning districts in which the subject use is permitted.

- 1. Church or Place of Worship.** Churches and places of worship shall not be allowed in the NC or UN zoning districts unless direct vehicle access is provided from a collector or arterial street or major thoroughfare or unless the point of access to the off-street parking area serving the use is located within 1,500 feet of a collector or arterial street or major thoroughfare, as measured along the center-line of the street right-of-way leading to the church or place of worship. This standard shall not apply to churches or places of worship located in the MU district.
- 2. College of University.** Direct vehicle access to college and university facilities shall be provided from a collector or arterial street or major thoroughfare. This standard shall not apply in the MU district.
- 3. Day Care, Limited and General.** The following regulations shall apply to day care centers in all zoning districts.
 - a. Day care centers shall comply with all applicable state regulations.
 - b. There shall be no signs or other exterior visible evidence of the conduct of a day care when it is located in or adjacent to the NC district.
 - c. All outdoor play areas shall be enclosed by a fence or wall with a minimum height of four feet.
- 4. Heavy Industry.** No heavy industry use shall be allowed to locate within 100 feet of the right-of-way of a public street or within 500 feet of the lot line of a lot that is zoned NC or that contains a single-family, duplex or multi-family use, unless approved as a special exception in accordance with Sec. V.D.
- 5. Home Occupations.** The following home occupation standards are intended to permit residents to engage in home occupations that are compatible with residential land uses and to ensure that home occupations do not adversely affect the integrity of residential areas. A home occupation shall be considered an accessory use, subject to the following standards:
 - a. No persons shall be engaged in a home occupation other than persons occupying the subject dwelling unit as their residence;
 - b. There shall be no signs or other exterior visible evidence of a home occupation;
 - c. There shall be no visible storage of equipment, materials or vehicles that have more than two axles.
 - d. The home occupation shall be conducted entirely within the principal residential building or within a permitted accessory structure; and

- e. No equipment shall be used that creates undue noise, vibration, electrical interference, smoke or particulate matter emission, excessive power demands or odors. Home occupations shall comply with the operational performance standards of Sec. IV.B.;
 - 6. **Nursing Home.** Direct vehicle access to nursing home facilities in the UN zoning district shall be provided from a collector or arterial street or major thoroughfare.
 - 7. **Parks and Recreation.** All lights, light poles and outdoor seating areas associated with park and recreation uses shall be set back at least 100 feet from lots that are zoned NC or that contain single-family, duplex or multi-family residential uses.
 - 8. **School.** Lighted outdoor recreational areas and facilities shall be set back at least 100 feet from lots that are zoned NC or that contain single-family, duplex or multi-family uses.
 - 9. **Retail, Service and Office Uses.** In the UN district, all retail and office uses shall have direct access to a collector or arterial street or major thoroughfare unless the use contains no more than 1,000 square feet of gross floor area, in which case local street access shall be allowed.
- G. **Accessory Uses and Structures.**
Principal uses classified as permitted uses by the district regulations of this article shall be deemed to include accessory uses and activities that are customarily associated with, and appropriate, incidental and subordinate to permitted principal uses. Accessory uses and activities shall be subject to the same regulations as principal uses unless otherwise stated.
- 1. **Residential Accessory Uses.** Residential accessory uses shall include, but not be limited to, the following accessory uses, activities and structures:
 - a. Fences and walls;
 - b. Garages, carports and off-street parking areas
 - c. Gates and guard houses;
 - d. Home occupations, subject to the standards of Sec. III.F.5.
 - e. Playhouses, patios, cabanas, porches, gazebos and incidental household storage buildings;
 - f. Radio and television receiving antennas and support structures;
 - g. Recreational facilities for the use of residents;
 - h. Keeping of domestic animals for non-commercial purposes;
 - i. Solar energy systems; and
 - j. Other necessary and customary uses determined by the Director of Planning and Community Development to be appropriate, incidental and subordinate to the principal use on the lot.

2. **Retail, Commercial and Office Accessory Uses.** Retail, commercial and office accessory uses shall include, but not be limited to, the following accessory uses, activities and structures:
- a. Dwelling units for security or maintenance personnel;
 - b. Fences, walls, gates and guardhouses;
 - c. Parking garages and off-street parking areas;
 - d. Radio and television receiving antennas and support structures;
 - e. Signs, subject to the City's Standard Sign Code (Chapter 3);
 - f. Solar energy systems; and
 - g. Other necessary and customary uses determined by the Director of Planning and Community Development to be appropriate, incidental and subordinate to the principal use on the lot.

H. Property Development Standards.

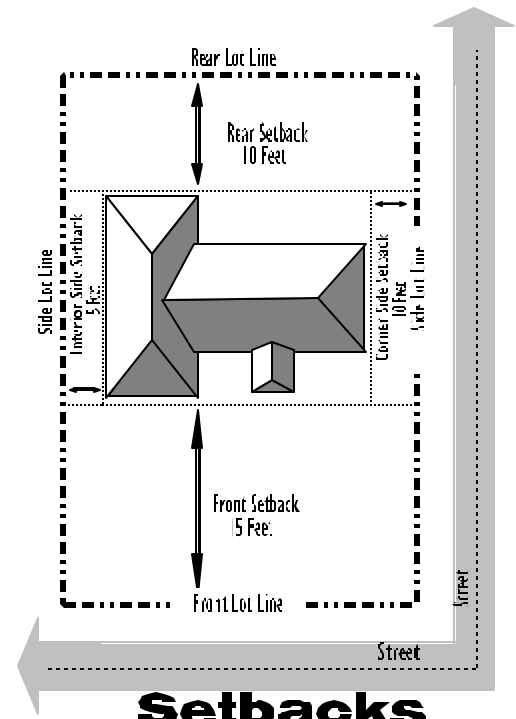
1. **Property Development Standards Table.** Property Development Standards Table of this section provides a summary of the development standards that apply within zoning districts. The table is intended for reference and may not reflect all of the regulations and standards that apply to particular uses. In the event of conflict between the Table and the standards found within the individual district sections (Secs. III.B. through III.D.), the text of the individual district regulations shall control. The measurements and exemptions section (Sec. III.H.2.) provides an explanation of terms used, as well as a number of exceptions and special rules that apply.
2. **Property Development Standards; Measurements and Exemptions.**
 - a. **Lot Size/Lot Area.** Lot size or lot area refers to the amount of horizontal land area within lot lines. No building permit or development approval shall be issued for a lot that does not meet the minimum lot size requirements of this Zoning Ordinance, the following exceptions.
 - (1) Lot Size Reduction for Public Purpose. When an existing lot is reduced as a result of conveyance to a federal, state or local government for a public purpose and the remaining area is at least 75 percent of the required minimum lot size for the district in which it is located, then that remaining lot shall be deemed to be in compliance with the minimum lot size standards of this Zoning Ordinance.
 - (2) Utility Facilities. Utility facilities using land or an unoccupied building requiring less than 1,000 square feet of site area are exempt from the minimum lot size requirements of all zoning districts.
 - (3) Single-Family Dwelling Exemptions. The minimum lot size requirements of this Zoning Ordinances shall not be interpreted as prohibiting the construction of a single-family

residential dwelling unit on a lot that was legally platted or recorded prior to the adoption of this Zoning Ordinance.

b. Setbacks. Setbacks refer to the unobstructed, unoccupied open space between a structure and the property line of the lot on which the structure is located. Setbacks shall be unobstructed from the ground to the sky and measured as the horizontal distance between a property line and the furthestmost projection of the structure, except as provided otherwise in this Zoning Ordinance.

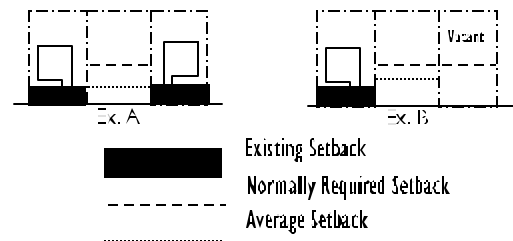
(1) Features Allowed Within Setbacks. The following features may be located within required setbacks:

- (a) Trees, shrubbery or other features of natural growth;
- (b) Fences or walls;
- (c) Driveways and sidewalks;
- (d) Signs, if permitted by the sign regulations of the City Code;
- (e) Bay windows, architectural design embellishments and cantilevered floor areas of dwellings that do not project more than two feet into the required setback;
- (f) Eaves that do not project more than two and one-half feet into the required setback;
- (g) Open outside stairways, entrance hoods, terraces, canopies and balconies that do not project more than five feet into a required front or rear setback nor more than two feet into a required side setback;
- (h) Chimneys, flues and ventilating ducts that do not project more than two feet into a required setback and when placed so as not to obstruct light and ventilation;
- (i) Open, unenclosed porches that do not project more than five feet into a required setback;
- (j) Utility lines, wires and associated structures, such as power poles;
- (k) Mechanical equipment, such as air conditioning units, pool filtering and heating equipment, water softeners and similar equipment, if the equipment does not restrict access through such setbacks, and if it is totally screened from



view from abutting property and rights-of-way by fences, walls or landscaping; and

- (2) **Setback Averaging.** If the existing front setbacks of lots within the same block and zoning district and fronting on the same side of the street are less than the required front setback of the underlying zoning district, applicants shall be allowed to use the “average” front setback on the block. In such cases, the “average setback” shall represent the mean (average)

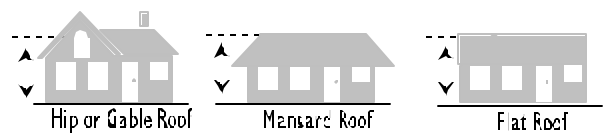


Setback Averaging

setback of all lots on the same side of the street within the same block, provided that lots that are not developed with the same type of use that is proposed on the subject property shall not be included in the calculation. When one or more of the lots on the block are vacant the normally required setback for the vacant lot shall be used in calculating the average setback. This provision shall not be interpreted as requiring a greater front setback than imposed by the underlying zoning district.

- (3) **Reduction of Setback for Public Purpose.** When an existing setback is reduced as a result of conveyance to a federal, state or local government for a public purpose and the remaining setback is at least 75 percent of the required minimum setback for the district in which it is located, then that remaining setback shall be deemed to be in compliance with the minimum setback standards of this Zoning Ordinance.

- c. **Height.** Height refers to the vertical distance between the average finished grade at the base of the building and: 1) the highest point of the coping of a mansard or flat roof or 2) the mid-point between the eaves and ridge line of a gable, hip or gambrel roof. In the case of fences or walls, height shall be measured on the side with the least vertical exposure above finished grade to the top of the fence or wall.



Measuring Height

- (1) **Exemptions from Height Standards.** The following structures and features shall be exempt from the height requirements of this Zoning Ordinances to the extent indicated:
- (a) Chimneys, smokestacks or flues;
 - (b) Cooling towers and ventilators;
 - (c) Elevator bulkheads and stairway enclosures;
 - (d) Utility poles and support structures;

- (e) Belfries, spires and church steeples;
- (f) Tanks, water towers and silos; and
- (g) Monuments and ornamental towers.

ARTICLE IV. SITE DEVELOPMENT STANDARDS

A. Compatibility Standards.

- 1. Purpose.** The compatibility standards of this section are intended to preserve and protect low-density residential uses and neighborhoods by ensuring that new development and redevelopment is compatible with the character of the area in which it is located.
- 2. Applicability.** Compatibility standards shall apply to all multi-family residential and all nonresidential development when it occurs:
 - a. within 150 feet of the lot line of any property zoned NC;
 - b. across the street from or adjacent to a lot containing a single-family or duplex use; or
 - c. within 150 feet of the boundary of designated scenic corridors.
- 3. Exemptions.** The following shall be exempt from compliance with the compatibility standards of this section:
 - a. Single-family or duplex uses;
 - b. Multi-family development unless such development exceeds a gross density of six units per acre or a height of 35 feet;
 - c. Structural alteration of an existing building when such alteration does not increase the gross square footage or height of the building; and
 - d. A change in use that does not increase the off-street parking requirements over and above the existing use.
- 4. Building Setback and Height Standards.** The following building setback and height standards shall apply to development that is subject to the compatibility standards of this section.
 - a. Building Setbacks.**
 - (1) On sites with 60 feet of lot width or less, no structure shall be erected within 10 feet of the lot line of property that is zoned NC or that contains a single-family or duplex use. On sites with more than 60 feet of lot width the minimum setback from the lot line of property that is zoned NC or that contains a single-family or duplex use shall be ten feet, plus two additional feet of setback for each ten additional feet of lot width or fraction thereof (beyond 60 feet). This provision shall not be interpreted as requiring a setback of more than 20 feet.

Lot Width (feet)	Setback from Adjacent Lot Line (feet)
0 to 60	10.0
60.01 to 70	12.0
70.01 to 80	14.0
80.01 to 90	16.0
90.01 to 100	18.0
More than 100	20.0

- b. Parking and Driveway Setbacks.** No off-street parking area or driveway shall be located within 25 feet of the lot line of property zoned NC or that contains a single-family or duplex use unless the parking and driveway are located on a site that is less than 125 feet in width. Minimum parking and driveway setbacks for sites with less than 125 feet of width shall be as follows:

Total Lot Width (feet)	Parking and Driveway Setback (feet)
0 to 60	6
60.01 to 70	8
70.01 to 80	10
80.01 to 90	12
90.01 to 100	14
100.01 to 110	16
110.01 to 120	18
120.01 to 125	20

- c. Building Height.** No structure shall exceed 35 feet in height within 50 feet of the lot line of property that is zoned NC or that contains a single-family or duplex use. No structure shall exceed 40 feet in height within 75 feet of the lot line of property that is zoned NC or that contains a single-family or duplex use. Structures located over 75 feet from the lot line of property that is zoned NC or that contains a single-family or duplex use may increase height (if permitted by applicable zoning district regulations) at a ratio of one foot in height for each five feet of setback. For example, a building limited to a 40 feet in height at 75 feet from property zoned NC may be increased to a height of 60 feet at a point that is 175 feet from the property zoned NC.

- 5. Buffer and Screening Standards.** Nonresidential and multi-family residential development, including off-street parking areas associated with such development, shall be screened from view of adjacent single-family and duplex uses and NC-zoned property. Such visual screening shall be accomplished through the use of opaque fences, vegetative buffers, earthen berms or a combination of such techniques along the lot line that is adjacent to the single-family or duplex use or NC-zoned property. Mechanical equipment, outdoor storage areas and refuse collection areas shall be completely shielded from view of adjacent single-family and duplex uses and NC-zoned property by an opaque fence or wall that is at least one foot taller than the site feature being screened from view, provided that this provision shall not be interpreted as requiring screening fences or walls to be taller than ten feet. Fences, walls and buffers must comply with all other City Code requirements.
- 6. Additional Site Design Standards.** The following additional site design standards shall apply to development that is subject to the compatibility standards of this section.
- a. Public and Commercial Recreation Uses.** Public and commercial swimming pools, tennis courts, ball fields, playground areas and other intensive public or commercial

recreational uses that are located outdoors and are lighted shall be set back at least 100 feet from the lot line of property that is zoned NC or that contains a single-family, duplex or multi-family use. This setback standard shall be reduced to a minimum of 50 feet if the recreational use is screened from view by an opaque fence or wall with a minimum height of six feet. The setback standard shall not apply to swimming pools, tennis courts or other active recreational uses that are accessory to a residential development or dwelling unit and not open to the general public.

b. Dumpsters and Solid Waste Receptacles. Dumpsters and solid waste receptacles shall be set back at least 20 feet from the lot line of property that is zoned NC or that contains a single-family or duplex use. Dumpsters and receptacles shall be completely screened from view of adjacent single-family and duplex uses and NC zoning by an opaque fence or wall that is at least one foot taller than the dumpster or solid waste receptacle.

7. Waiver of Compatibility Standards. The Board of Adjustment may grant a special exception, pursuant to Sec. V.C, that has the effect of reducing or eliminating one or more of the compatibility standards imposed by this section if it determines that eliminating one or more of the requirements is consistent with the purposes of this Zoning Ordinance and will not harm the surrounding area.

B. Operational Performance Standards.

1. Purpose. The operational performance standards of this section are intended to protect the health, safety and welfare of the citizens of Baytown by regulating potential nuisance features associated with certain land uses.

2. Applicability. The operational performance standards of this section shall apply to all uses, buildings and structures within the City unless otherwise specifically indicated.

3. Exemptions. The following are exempt from the performance standards of this section:

- a. Temporary construction, excavation and grading associated with development for which applicable permits have been issued and with the installation of streets or utilities.
- b. Demolition activities that are necessary and incidental to permitted development on the same lot, on another of several lots being developed at the same time or in the public right-of-way or easement.

4. Standards. The following standards shall apply.

a. Noise Standards. Sites shall be laid out and uses shall be operated to prevent noise from becoming a nuisance to adjacent single-family and duplex uses and NC-zoned sites.

b. Vibration. All uses shall be operated so that ground vibration is not perceptible outside the lot lines of the site on which the use is located.

c. Fire and Explosive Hazards. Underground storage tanks for flammable liquids and gasses shall be located at least 50 feet from the lot line of lots zoned NC or that contain

a single-family or duplex use; above-ground tanks shall be setback at least 100 feet from such lot lines, unless the Board of Adjustment determines, based on information provided by the applicant, that a 50-foot setback will ensure compliance with all applicable state standards. The storage tank setback provisions of this section shall not apply to tanks that are accessory to single-family or duplex units.

d. Light and Glare. The following standards shall apply in the MU district:

- (1) All exterior lighting shall be hooded or otherwise shielded so that the light source is not directly visible from property that is zoned NC or that contains a single-family or duplex use.
- (2) All lighting shall be shielded so that substantially all emitted light falls within the property line of the property from which the light emanates.
- (3) All exterior building floodlights shall be shielded so that all emitted light falls upon the property from which the light emanates.
- (4) No illumination shall produce direct, incident or reflected light that interferes with the safe movement of motor vehicles on public streets. The types of lighting that shall be prohibited by this provision shall include, but not be limited to: any light that may be confused with or construed as a traffic control device; and any animated, flashing or changing intensity lights, except for temporary holiday displays.

e. Electromagnetic Interference. No operations or activities shall be conducted that cause electrical disturbances to be transmitted across lot lines.

5. Nonconforming by Reason of Performance Standards. Any use existing on ?EFFECTIVE DATE?, that does not comply with one or more of the performance standards of this section shall not be deemed nonconforming uses for the purposes of this Zoning Ordinance.

C. Residential Design Manufactured Housing Standards.

Residential-design manufactured housing units shall be subject to the following standards.

- 1. Roof.** The roof must be predominantly double-pitched and have a minimum vertical rise of 2.2 inches for every 12 inches of horizontal run. The roof must be covered with material that is commonly used on site-built single-family dwellings within the City of Baytown, including but not limited to wood, asphalt composition shingles or fiberglass, and excluding corrugated aluminum, corrugated fiberglass or corrugated metal. The roof shall have a minimum eave projection and roof overhang of eight inches.
- 2. Siding.** Exterior siding shall be of a material commonly used on site-built single-family dwellings within the City of Baytown, which does not have a high-gloss finish, and which may include wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with local building codes.
- 3. Transport Equipment.** All mobile home running gear, tongues, axles and wheels must be removed at the time of installation of the home on the lot.

4. **Finished Floor Elevation.** The finished floor elevation of the residential-design manufactured housing unit shall be a maximum of 24 inches above the exterior finish grade of the lot on which it is located, as measured at the main entrance into the dwelling.
5. **Attached Additions.** Any attached addition to a residential-design manufactured housing unit shall comply with building code requirements. All of the design standards of this section shall apply to all additions.
6. **Garages.** Detached garages that are constructed on the same lot as a residential-design manufactured housing unit shall comply with the building code and with all of the design standards of this section.

ARTICLE V. ADMINISTRATION AND PROCEDURES

A. Decision-Making Bodies and Officials.

The City decision-making bodies and officials described in this section, without limitation upon the authority each possesses by law, have responsibility for implementing and administering this Zoning Ordinance in the manner described in this section.

1. **Growth Management and Development Advisory Commission.** For the purposes of this Zoning Ordinance, the Growth Management and Development Advisory Commission shall exercise the following powers and be required to:

- a. Review and recommend to the City Council changes in this Zoning Ordinance; and
- b. Perform such other functions and duties as authorized in the City Code and as may be duly delegated to them by the City Council.

2. **Board of Adjustment.** The Growth Management and Development Advisory Commission is hereby authorized to act as the Board of Adjustment for the purposes of this Zoning Ordinance. In that capacity, the Commission shall exercise the following powers and be required to:

- a. Hear and decide appeals where it is alleged that there is an error in any order or decision by City officials in the administration and enforcement of this Zoning Ordinance;
- b. Hear and decide appeals of any interpretation of the text of this Zoning Ordinance made by the Director of Planning and Community Development pursuant to Sec. II.D.; and
- c. Hear and decide requests for variances from the terms of this Zoning Ordinance pursuant to the procedures and standards of Sec. V.D.

3. **Department of Planning and Community Development; Director.** For the purposes of this Zoning Ordinance, the Department of Planning and Community Development, through its Director, shall exercise the following powers and be required to:

- a. Make recommendations and provide assistance to the City Council, Growth Management and Development Advisory Commission and Board of Adjustment;
- b. Render administrative decisions on appropriate development applications; and
- c. Render administrative interpretations of the Zoning Ordinance text pursuant to the procedures and standards in Secs. II.C.5. and II.D.

B. Notice of Public Hearings.

Public notice of hearings shall be given as follows.

1. **Publication.** Whenever the provisions of this Zoning Ordinances require a public hearing before the Growth Management and Development Advisory Commission or the Board of Adjustment, notice of a public hearing on the application shall be published in a newspaper of general circulation in the City of Baytown at least 11 days before the public hearing. Whenever the provisions of this Zoning Ordinances require a public hearing before the City

Council, notice of a public hearing on the application shall be published in a newspaper of general circulation in the City of Baytown at least 16 days before the public hearing.

2. **Mailing.** Notice of required public hearings shall also be sent by mail to owners of land within 300 feet of the lot lines of the land that is the subject of the application. Such notice shall be postmarked at least 11 days before the Growth Management and Development Advisory Commission or Board of Adjustment public hearing. If a hearing before the City Council is required, such notice shall be mailed and postmarked at least 16 days before the City Council public hearing. Owners of land shall be identified by reference to the most recent tax records, except that when land is owned by a condominium association, notice shall be given to the condominium association. Notice shall be deemed mailed by virtue of its deposit with the United States Postal Service, properly addressed with postage prepaid.
3. **Posting.** Notice of required public hearings shall also be provided by way of a sign posted on the land that is the subject of the application. One sign shall be posted for each 200 feet of frontage along a public street, with a maximum of four signs required per frontage. Signs shall be located so that the lettering is visible from the street. Where the land does not have frontage on a public street, signs shall be posted on the nearest public street with an attached notation indicating the location of the land subject to the application.
4. **Contents of Notice.**
 - a. **Publication and Mailed Notice.** Published and mailed notices shall provide at least the following information: the general location of the land that is the subject of the application; its legal description or street address; the substance of the application; the time, date and location of the public hearing; the time, date and place where the application may be inspected by the public; and a statement that interested parties may appear at the public hearing and be heard with respect to the application.
 - b. **Signs.** Required signs shall at least indicate the substance of the application; the time, date and location of the public hearing; and the contact point for additional information.

C. Amendments.

1. **Purpose.** The purpose of this section is to provide a means for changing the text of this Zoning Ordinance or the district boundaries shown on the Official Zoning Map, as necessary in light of changed conditions.
2. **Authority.** The City Council may, after recommendation of the Growth Management and Development Advisory Commission, adopt an ordinance amending the text of this Zoning Ordinance or the boundaries of the Official Zoning Map upon compliance with the provisions of this section.
3. **Initiation.** An application for an amendment to the Official Zoning Map may be proposed by the Mayor, a member of the City Council, the City Manager or a qualified applicant for a proposed development. An amendment to the text of this Zoning Ordinance may be proposed by the Mayor, a member of the City Council or the City Manager.
4. **Procedure.**

- a. Submission of Application.** A complete application shall be submitted to the Director of Planning and Community Development in a form established by the Director, along with a nonrefundable fee that is established from time-to-time by the City Council to defray the actual cost of processing the application. No application shall be processed until the established fee has been paid and the application has been deemed complete by the Director of Planning and Community Development. No application fee shall be required when such amendment is being proposed by the Mayor, a member of the City Council or the City Manager.
- b. Review and Recommendation by Director of Planning and Community Development Department.** After determining that the application is complete, the Director of Planning and Community Development shall prepare a staff report, which may include a recommendation for approval or disapproval based on the criteria in Sec. V.C.4.d.(4). A copy of the staff report on a proposed amendment to the Official Zoning Map shall be mailed to the applicant at least five days prior to the public hearing on the application.
- c. Recommendation by Growth Management and Development Advisory Commission.** The Growth Management and Development Advisory Commission shall, after due notice, conduct a public hearing on the report, in accordance with law. At the public hearing, the Growth Management and Development Advisory Commission shall consider the application, the staff report, the relevant support materials and public testimony given at the public hearing. After the close of the public hearing, the Growth Management and Development Advisory Commission shall prepare and deliver a report and recommendation to the City Council to approve or disapprove the proposed amendment based on the criteria in Sec. V.C.4.d.(4).
- d. Action by City Council.**
- (1) **Public Hearing.** After receiving the final report of the Growth Management and Development Advisory Commission, the City Council shall, after due notice, conduct a public hearing on the proposed amendment. At the public hearing, the City Council shall consider the application, the staff report, the relevant support materials and public testimony given at the public hearing.
 - (2) **Consideration of Text Amendment's Effect.** After the close of the public hearing on an amendment to the Zoning Ordinance text, the City Council shall vote to consider whether the proposed amendment, if adopted, would represent a substantive modification of the Zoning Ordinance text, based on the substantive amendment criteria of Sec. V.C.4.d.(2)(c).
 - (3) **Non-Substantive Modification.** If the City Council determines that the proposed amendment does not represent a substantive modification of the Zoning Ordinance text, it shall vote to approve, approve with modifications or disapprove the proposed amendment, based on the criteria in Sec. V.C.4.d.(4).
 - (4) **Substantive Modification; Referendum.** If the City Council determines that the proposed amendment does represent a substantive modification of the Zoning Ordinance text, it shall direct the City Manager to submit the proposed amendment to the electors of

the City, for an advisory vote of approval or rejection, at a special election to be held on the day of the next primary or general election.

- (5) Substantive Amendment Criteria. All proposed amendments to the Zoning Ordinance text shall be considered substantive modifications unless their effect would be solely to correct clerical errors, clarify ambiguous provisions or eliminate conflicting requirements. The following shall always be considered substantive modifications:
 - (a) the addition of new zoning districts beyond those included in this Zoning Ordinance on ?EFFECTIVE DATE?;
 - (b) the deletion of zoning districts included in this Zoning Ordinance on ?EFFECTIVE DATE?;
 - (c) the addition or deletion of standards or requirements that have the effect of making applicable zoning regulations more or less restrictive than those included in this Zoning Ordinance on ?EFFECTIVE DATE?.
- (6) Post-Referendum Public Hearing. After receiving the City Manager's report on the advisory referendum held pursuant to Sec. V.C.4.d.(2)(b), the City Council shall, after due notice, conduct a post-referendum public hearing on the application. At the public hearing, the City Council shall consider the application, the staff report, the relevant support materials and public testimony given at the public hearing. After the close of the public hearing, the City Council shall vote to approve, approve with modifications or disapprove the proposed text amendment, based on the criteria in Sec. V.C.4.d.(4).
- (7) Amendment Criteria. The wisdom of amending the text of this Zoning Ordinance or the Zoning Map is a matter committed to the sound legislative discretion of the City Council and is not controlled by any one factor. In determining whether to adopt, adopt with modifications or disapprove the proposed amendment, the City Council shall consider the following factors:
 - (a) Consistent with Zoning Ordinance. Whether and the extent to which the proposed amendment would conflict with any portion of this Zoning Ordinance;
 - (b) Compatible with Surrounding Area. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land;
 - (c) Changed Conditions. Whether and the extent to which there are changed conditions that require an amendment;
 - (d) Effect on Natural Environment. Whether and the extent to which the proposed amendment would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment;

- (e) Community Need. Whether and the extent to which the proposed amendment addresses a demonstrated community need, as evidenced, in the case of a substantive amendment, by an advisory referendum vote of the electors; and
 - (f) Development Patterns. Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning.
- (8) Vote Required for Action. Action to amend the text of this Zoning Ordinance or the official Zoning Map, whether deemed a substantive or non-substantive amendment, shall require an affirmative vote of at least six members (three-fourths) of the City Council.

D. Variances and Special Exceptions.

1. Purpose.

- a. Variances.** Variances are deviations from the property development standards for the applicable zoning district where development is proposed that would not be contrary to the public interest and, due to special conditions, a literal enforcement of the provisions of this Zoning Ordinance would result in unnecessary hardship, and so that the spirit of this Zoning Ordinance is observed and substantial justice done. A variance is not applicable to a use or a performance standard.
- b. Special Exceptions.** Special exceptions are deviations from otherwise applicable operational performance standards and compatibility standards where development is proposed that would be (1) compatible with surrounding land uses; (2) in keeping with the public interest and (3) consistent with the purposes of this Zoning Ordinance.

2. Authority. The Board of Adjustment, in accordance with the procedures, standards and limitations of this section, shall approve, approve with conditions or disapprove an application for a Variance Permit or Special Exception Permit after receiving a recommendation by the Director of Planning and Community Development.

3. Initiation. An application for a Variance Permit or Special Exception Permit shall be submitted by a qualified applicant.

4. Procedure.

a. Submission of Application. A complete application for a Variance Permit or Special Exception Permit shall be submitted to the Director of Planning and Community Development, on a form prescribed by the Director, along with a nonrefundable fee that is established from time-to-time by the City Council to defray the actual cost of processing the application. No application shall be processed until the established fee has been paid and the application has been determined complete by the Director.

b. Review and Recommendation by Director of Planning and Community Development Department. After determining that the application is complete, the Director of Planning and Community Development shall review the application and prepare a staff report, which may include a recommendation of approval, approval with

conditions or disapproval based upon the criteria in Sec. V.D.5. A copy of the report shall be mailed to the applicant at least five days prior to the public hearing on the application.

- c. **Public Hearing.** After due notice, the Board of Adjustment shall hold a public hearing on an application for a Variance Permit or Special Exception Permit. At the public hearing, the Board of Adjustment shall consider the application, the staff report, the relevant support materials and the public testimony given at the public hearing. After the close of the public hearing, the Board of Adjustment shall vote to approve, approve with conditions or disapprove the application for a Variance Permit or Special Exception Permit, pursuant to the criteria of Sec. V.D.5.
- d. **Notice of Decision.** The Director of Planning and Community Development shall provide a copy of the decision to the applicant by mail within ten days of the Board's decision.

5. Variance and Special Exception Permit Criteria.

- a. **Variance Permits.** To approve an application for a Variance Permit, the Board of Adjustment shall make an affirmative finding that the following criteria are met:
 - (1) That special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial;
 - (2) That these special circumstances are not the result of the actions of the applicant;
 - (3) That literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship;
 - (4) That granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and which would carry out the spirit of this Zoning Ordinance and substantial justice;
 - (5) That granting the variance will not adversely affect adjacent land in a material way; and
 - (6) That granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.
- b. **Special Exception Permits.** To approve an application for a Special Exception Permit, the Board of Adjustment shall make an affirmative finding that the following criteria are met:
 - (1) That granting the special exception will ensure the same general level of land use compatibility as the otherwise applicable standards;
 - (2) That granting the special exception will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the

proposed development because of inadequate buffering, screening, setbacks and other land use considerations;

- (3) That granting the special exception will not adversely affect property values in any material way; and
- (4) That granting the special exception will be generally consistent with the purposes and intent of this Zoning Ordinance.

6. Conditions. The Director of Planning and Community Development may recommend, and the Board of Adjustment may impose, such conditions on a Variance Permit or Special Exception Permit as are necessary to accomplish the purposes of this Zoning Ordinance, to prevent or minimize adverse impacts upon the public and neighborhoods and to ensure compatibility. These conditions may include but are not limited to limitations on size, bulk and location; standards for landscaping, buffering and screening, lighting and adequate ingress and egress; cash deposits, bonds and other guarantees of deposit; other on-site improvements; and limitations on the duration of the permit or hours of operation.

7. Effect of Variance Permit or Special Exception Permit.

- a. General.** Issuance of a Variance Permit or Special Exception Permit shall authorize only the particular variation which is approved in the Variance Permit or Special Exception Permit. A Variance Permit or Special Exception Permit shall run with the land.
- b. Time Limit.** Unless otherwise specified in the Variance Permit or Special Exception Permit, an application to commence construction of the improvements that were the subject of the Variance Permit or Special Exception Permit request must be applied for and approved within 12 months of the date of the approval of the Variance Permit or Special Exception Permit, otherwise the Variance Permit or Special Exception Permit shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, only one extension of the 12-month time frame may be granted by the Board of Adjustment for a period not to exceed 12 months for good cause shown.

ARTICLE VI. NONCONFORMITIES

A. General.

1. **Purpose and Scope of Regulations.** This section regulates the continued existence of:

- a. Uses established prior to ?EFFECTIVE DATE? that do not conform to the use regulations of this Zoning Ordinance in the zoning districts in which such uses are located. Such uses are hereafter referred to as *nonconforming uses*; and
- b. Buildings and structures constructed prior to ?EFFECTIVE DATE? that do not comply with the applicable property development standards and other bulk-related regulations of this Zoning Ordinance in the zoning districts in which such buildings or structures are located. Such structures are hereafter referred to as *noncomplying structures*.

2. **Authority to Continue.**

- a. **Continuation of Nonconforming Use.** A nonconforming use that lawfully occupies a structure or a vacant site on ?EFFECTIVE DATE? may be continued so long as it remains otherwise lawful, subject to the standards and limitations of this section.
- b. **Continuation of Noncomplying Structures.** A noncomplying structure that lawfully occupies a land site on ?EFFECTIVE DATE? that does not conform with the standards for front setbacks, side setbacks, rear setbacks, height, screening, floor area of structures, driveways or open space for the district in which the structure is located may be used and maintained, subject to the standards and limitations in this section.

3. **Ordinary Repair and Maintenance.** Normal maintenance and incidental repair may be performed on a complying structure which contains a nonconforming use or on a noncomplying structure. This section shall not be construed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of the Chief Building Official who declares a structure to be unsafe and orders its restoration to a safe condition.

B. Nonconforming Uses.

1. **Abandonment.**

- a. **When Abandoned.** A nonconforming use of land or of a structure in a district that is discontinued or remains vacant for a continuous period of one year, shall be presumed to be abandoned and shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of the structure or land site must conform with the regulations for the district in which it is located. This provision shall not apply to a nonconforming dwelling unit in the NC or UN zoning districts.
- b. **Overcoming Presumption of Abandonment.** The presumption of abandonment may be rebutted upon a showing, to the satisfaction of the Director of Planning and Community Development, that during such period the owner of the land or structure (i) has been maintaining the land and structure in accordance with the Building Code and did not intend to discontinue the use, or (ii) has been actively and continuously

marketing the land or structure for sale or lease, or (iii) has been engaged in other activities that would affirmatively prove there was not intent to abandon.

- c. **Calculation of Period of Abandonment.** Any period of such discontinuance caused by government actions, fire or natural calamities, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance pursuant to this section.

2. Movement, Alteration and Enlargement. No nonconforming use may be moved, enlarged or altered and no nonconforming use of land may occupy additional land, except in the manner provided in this section.

- a. **Enlargement.** A nonconforming use may not be enlarged, expanded or extended to occupy all or a part of another structure or land site, that it did not occupy on ?EFFECTIVE DATE? of this Zoning Ordinance. However, a nonconforming use may be extended within the same structure, provided no structural alteration of the structure is proposed or made for the purpose of the extension.
- b. **Exterior or Interior Remodeling or Improvements to Structure.** Exterior or interior remodeling or improvements to a structure containing a nonconforming use shall be allowed provided there is no expansion of the nonconforming use.
- c. **Relocation of Structure.** A structure containing a nonconforming use may not be moved unless the use shall conform to the regulations of the zoning district into which the structure is moved.
- d. **Change of Nonconforming Nonresidential Use to Another Nonconforming Use.** Upon application to the Director of Planning and Community Development pursuant to Sec. II.D., a nonconforming use may be changed to another nonconforming use of the same or similar type or intensity or to another nonconforming use of the same or similar type, but of less intensity. Whenever any nonconforming nonresidential use is changed to a less intensive nonconforming nonresidential use, such use shall not be changed back to a more intensive nonconforming nonresidential use. Whenever any nonconforming nonresidential use is changed to a conforming use, such use shall not later be changed to a nonconforming use.
- e. **Destruction of Structure with Nonconforming Use.** If a structure that contains a nonconforming use is destroyed to the extent of 50 percent or more by fire or natural calamity or is voluntarily razed or is required by law to be razed, the nonconforming use shall not be resumed, and the structure shall not be restored. The determination of the extent of damage or destruction under this section shall be based on the ratio of the estimated cost of restoring the structure to its condition before the damage or destruction to the estimated cost of duplicating the entire structure as it existed prior to the damage or destruction.

C. Noncomplying Structures.

- 1. Movement, Alteration and Enlargement.** No noncomplying structure may be moved, enlarged or altered, except in the manner provided in this section or unless required by law.

- a. **Repair, Maintenance, Alterations and Enlargement.** Any noncomplying structure may be repaired, maintained, altered or enlarged; provided, however, that no such repair, maintenance, alteration or enlargement shall either create any new noncompliance or increase the degree of the existing noncompliance of all or any part of such structure.
- b. **Moving.** A noncomplying structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.
- c. **Damage or Partial Destruction of Noncomplying Structure.** If a noncomplying structure is damaged or destroyed by fire or natural calamity to the extent of 75 percent or less, the structure may be restored if restoration is started within six months and diligently pursued to completion. The City may require a cash deposit, bond or other guarantee of performance to ensure diligent progress and completion of the restoration. Any delay in starting such restoration that is caused by government actions or natural calamities, and without contributing fault by the owner, shall be deducted in calculating the starting date of restoration.

D. Nonconforming Accessory Uses and Noncomplying Accessory Structures.

The continued existence of nonconforming accessory uses and a noncomplying accessory structures shall be subject to the provisions governing principal nonconforming uses and noncomplying structures set forth in Secs. VI.B. and VI.C.

E. Determination of Nonconforming Use and Noncomplying Structure Status.

The burden of establishing that a nonconforming use or noncomplying structure lawfully exists under this Zoning Ordinance shall, in all cases, be the owner's burden and not the City's.

ARTICLE VII. ENFORCEMENT

A. Enforcement Officer.

This Zoning Ordinance shall be enforced by the Board of Adjustment through the Director of Planning and Community Development, pursuant to Sec. 211.012 of the Texas Local Government Code or other applicable law.

B. Compliance Required.

No person may use, occupy or develop land, buildings or other structures, or authorize or permit the use, occupancy or development of land, buildings or other structures except in accordance with all provisions of this Zoning Ordinance.

C. Remedies and Enforcement Powers.

The City shall have the following remedies and enforcement powers:

1. **Withhold Permits.** The City may deny or withhold all permits, approvals or other forms of authorization on any land or structure for which there is an uncorrected violation of a provision of this Zoning Ordinance or of a condition of a permit, certificate, approval or other authorization previously granted by the City Council, Commission or Board of Adjustment. In-lieu of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected.
2. **Stop Work.** With or without revoking permits, the City may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this Zoning Ordinance or of a permit or other form of authorization issued hereunder, in accordance with its power to stop work under its Building Codes.
3. **Injunctive Relief.** The City may seek an injunction or other equitable relief in court to stop any violation of this Zoning Ordinance or of a permit, certificate or other form of authorization granted hereunder.
4. **Abatement.** The City may seek a court order in the nature of mandamus, abatement or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.
5. **Civil Remedies.** The City shall have the right to institute any appropriate civil action to enforce, enjoin, prevent, restrain, correct or abate any violation of the provisions of this Zoning Ordinance, including any and all remedies available pursuant to the laws of the State of Texas. All court costs and reasonable attorney's fees incurred by the City in connection with any civil action shall be awarded to the City if it is the prevailing party.
6. **Criminal Remedies.** Any person, corporation, firm or entity that violates any provision of this Zoning Ordinance shall be guilty, upon conviction, of a separate misdemeanor offense for each day or portion of a day during which the violation continues, which shall be punishable by a fine of not less than \$200 per day.
7. **Other Remedies.** The City shall have such other remedies as are and as may be from time-to-time provided by Texas law for the violation of zoning regulations.

- 8. Remedies Cumulative.** The remedies and enforcement powers set out in this section shall not be considered exclusive remedies but rather they shall be cumulative with all other remedies provide in this Zoning Ordinance, in any other ordinance or by law.

D. Enforcement Procedures.

The following procedures shall be followed in carrying out enforcement powers.

- 1. Notice.** The Director of Planning and Community Development shall give written notice by certified mail to the owner of land on which a violation exists. The notice shall state the nature of the violation and the date, time and place of the Board of Adjustment meeting at which the Board is to act on the enforcement matter.
- 2. Board of Adjustment Action; Public Hearing.** After due notice, the Board of Adjustment shall hold a public hearing on the zoning violation. At the public hearing, the Board shall consider the staff report detailing the nature of the violation, the relevant support materials and the public testimony given at the public hearing, including the testimony of the owner of the land on which the violation is said to exist. After the close of the public hearing, the Board of Adjustment shall determine, by a vote of its members, if a violation exists. If a violation is determined to exist, the Board of Adjustment shall identify the appropriate remedy and enforcement action.
- 3. Notice of Decision.** The Director of Planning and Community Development shall provide a copy of the Board's decision and enforcement action to the applicant by certified mail within ten days of the Board's decision.
- 4. Notice of Criminal Penalty.** In no case shall any person acting on behalf of the City seek a criminal penalty for violation of this Zoning Ordinance without giving 30-day prior notice of the violation, specifying the action necessary to correct the violation and avoid criminal prosecution.

E. Other Enforcement Matters.

- 1. Other Powers.** In addition to the enforcement powers specified in this Article, the City may exercise any and all enforcement powers granted to it by Texas law, as it may be amended from time to time.
- 2. Continuation.** Nothing in this Zoning Ordinance shall prohibit the continuation of previous enforcement actions, undertaken pursuant to previous, valid resolutions, ordinances and laws.

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