

### 3. ZONING

#### 3.1. Zoning Map

#### 3.2. Zoning District Boundary Delineations

#### 3.3. Digital Mapping

#### 3.4. Zoning Districts Established

#### 3.5. Planned Development District

##### 3.5.1. Applicability

To be considered for a Planned Development District, the applicant shall meet all of the following criteria:

- A. *Location.* Any property located within the city limits is eligible for a Planned Development District. Upon City Council approval, an owner or developer of a specific piece of property located within the city's designated planning area may be authorized to submit a Planned Development District application in conjunction with an annexation request, but final approval of the PD will not be effective until said property is annexed into the Town of Pine Island.
- B. *Size.* There shall be no minimum or maximum tract size for a PD application.

##### 3.5.2. Purpose

The intent of the Planned Development District is to permit and encourage comprehensively planned zoning and development whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the concurrent processing of zoning and development. The City Council may consider any of the following factors in review of a Planned Development District application.

- A. *Flexibility.* Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts .
- B. *Compatibility.* Providing for compatibility with the surrounding land uses.
- C. *Harmony.* Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- D. *Variety.* Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- E. *No Negative Impact.* Does not have a negative effect upon the future development of the area.
- F. *Coordination.* Permit coordination and planning of the land surrounding the PD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- G. *Open Space.* Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- H. *Natural Features.* Maximum enhancement and minimal disruption of existing natural features and amenities.
- I. *Comprehensive Plan.* Comprehensive and innovative planning and design of mixed-use yet harmonious developments consistent with the guiding policies of the Comprehensive Plan.
- J. *Special Features.* Better utilization of sites characterized by special features of geographic location, topography, size or shape.

##### 3.5.3. Rezoning

Property may be rezoned to the Planned Development District by the City Council in accordance with the requirements of this chapter and **Article 2, Administration and Procedures.**

- A. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and zoning standards. Each district shall be assigned a project number or label, along with the designation "PD." The rezoning shall include the adoption of zoning standards and a specific master plan.

- B. All uses identified within the Use Matrix may be allowed as permissible uses or conditional uses, unless otherwise specified, subject to City Council approval of the Planned Development District request .
- C. *Residential Density*. Residential densities shall be determined on the basis of the following considerations:
  - a. The densities of surrounding development;
  - b. The densities allowed under the current zoning;
  - c. The planning and development development goals and other policies of the city's Comprehensive Plan.
  - d. The topography and character of the natural environment; and,
  - e. The impact of a given density on the specific site and adjacent properties.
- D. *Building Setback*. There shall be no minimum building setback except as may be determined by the Planning Commission and City Council during review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. Greater setbacks may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate separation from adjacent properties.
- E. *Building Height*. There shall be no maximum building height except as may be determined by the Planning Commission and City Council during the review of the zoning plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission or City Council when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.
- F. *Building Area*. The Planning Commission and City Council shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

### 3.6. Planned Development Cluster / Conservation Subdivision District (PDCS)

#### 3.6.1. Description and Intent / Purposes

- A. The purpose of the Planned Development Cluster/Conservation Subdivision (PDCS) is to preserve rural landscape character, natural resource areas, farmland, and other large areas of open land, while permitting development in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:
  - a. Provide a residential zoning district that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land.
  - b. Provide design flexibility and efficiency in the location of services and infrastructure, by reducing road length, utility runs, and the amount of paving required for residential development.
  - c. Create neighborhoods with visual as well as physical access to preserved open space, with amenities in the form of central open space, and with strong neighborhood identity.
  - d. Reduce erosion and sedimentation by preserving existing vegetation and/or restoring native prairie.
  - e. Restore or create new native prairies and tree canopy where appropriate and encourage the preservation and enhancement of wildlife habitat.
  - f. Preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
  - g. Preserve important historic and archaeological sites.
  - h. Permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility extensions, necessary for residential development.

- i. Reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
- j. Require contiguous permanent open space between adjacent parcels.
- k. Encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of open space, play areas and community facilities as focal points in the neighborhood.
- l. Encourage street designs that reduce traffic speeds and reduce reliance on arterial roads.
- m. Conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to, and views of, dedicated open space.
- n. Protect prime agricultural land and preserve farming, ranching, and agriculture as an economic activity.
- o. Protect the character of surrounding neighborhoods and the quality of life of adjacent residents.
- p. Promote other purposes of the zoning ordinance, subdivision regulations, soil erosion and sedimentation control ordinance, protected environmental areas ordinance, greenway network plan, and other ordinances and policies of the City of Pine Island.

#### 3.6.2. Applicable land use districts

- A. The Planned Development / Cluster Conservation Subdivision is allowed in the RER and CN-1 zoning districts.

#### 3.6.3. Minimum Subdivision Acreage

The site proposed for a cluster/conservation subdivision must contain a gross area of ten (10) acres or more in order to meet the requirements of this chapter.

#### 3.6.4. Authority of Waller County Health Department

Nothing contained in these regulations shall be construed as preventing the Health Department from adopting additional or more stringent requirements governing subdivision development.

#### 3.6.5. Approval Procedure

- A. The application for the PDCS shall be executed by all property owners, including holders of deeds to secure debt, as recorded in the official records of Waller County.
- B. Any request involving the approval of a conservation subdivision planned development shall be considered an amendment to the zoning ordinance. If approved by the governing body, the conservation subdivision planned development regulations shall become the zoning for the property.
- C. Exceptions or variations in the general regulations and standards associated with the underlying zoning district, or exceptions or variations to other applicable requirements of the zoning ordinance, may be requested as part of the preparation and review of the conservation subdivision planned development submittal. Such requests may be approved if the spirit and intent of such requirements are complied with in the total development plan approved for the conservation subdivision planned development.
- D. Conservation subdivision planned development submittals shall be prepared in accordance with the requirements outlined in this chapter.
- E. Approval of the conservation subdivision concept plan shall constitute preliminary plat approval. Procedures for the preparation of the final plat shall comply with the Town of Pine Island Subdivision Ordinance.
- F. After review and recommendation by the planning commission, the petitioner must submit the plan to the City Manager by **noon Monday of the week preceding the week during which the mayor and commission will meet (the Thursday after the third Tuesday of the month)**. The

composition and number of plan copies to be submitted for consideration of the application by the city council shall be determined by the planning department.

Additionally after review and recommendation by the planning commission, any adjustment or amendment submitted to binding site plans by the petitioner, beyond those recommended by the planning commission, shall be considered a new application and cause the original rezoning request to be returned to the planning commission for reconsideration. All fees normally associated with a rezoning request shall also be applicable.

- G. If the planning commission recommends changes to the binding site plan, and petitioner decides to include such changes to his or her request, then said petitioner must make appropriate changes to the binding site plan, submit said plan in accordance with the provisions of paragraph F above, and will include on the plan a statement signed by the preparer outlining the changes and stating that no other changes have been made except those requested.
- H. Phased Site Plan
- a. If the project is to be developed in phases, following the approval of the concept plan, the owner shall submit a detailed site plan of each project phase to the city manager for approval prior to the issuance of any permits. The city manager may refer, at their discretion, and shall refer, upon the request of the owner, approval of the site plan for each phase to the full planning commission.
  - b. The detailed site plan of each project phase shall be drawn to scale, fully dimensioned, and shall include the same information as required for a final plat as detailed in the Town of Pine Island Subdivision Regulations.
  - c. The city manager shall approve, and may only approve, the phased site plan if it conforms to the approved concept plan. Any deviation from the concept plan shall be grounds for denial of the phase site plan and shall necessitate the petitioning for approval of an amendment of the concept plan and "CSPD" zoning before the phase site plan can be approved. Approval of the phase site plan will be through a staff permit procedure.
  - d. The approval of the phase site plan and related information for each phase shall allow the owner to proceed with the installation of improvements and submit (when appropriate) a final subdivision plat for approval, all in accordance with the procedures set forth in the Town of Pine Island Subdivision Regulations.
- I. Compliance. In any event where it is determined by the City Council, after referral and/or receipt of a recommendation from the planning commission, that the development of an approved planned development project is not in accordance with this section, the City Council, after holding a public hearing, may amend the zoning ordinance to place parts or all of the property in the planned development district in its prior zoning classification or any other appropriate classification.
- J. Application of Regulations
- a. For the purposes of zoning compliance, a planned development property shall be treated as one lot.
  - b. To ensure adequate and proper construction of the following facilities listed below in "i" through "v," the City Council may require that the owner submit a performance bond or other financial guarantee. Such guarantee, if required, shall be in an amount set by the City Council and sufficient to allow the Town of Pine Island to construct the stipulated facilities. In addition, the owner shall be required to grant right-of-entry to the Town of Pine Island or its designees to construct such improvements where a bond is required. The bonding requirements shall be the same as required of a subdivision as detailed in the Town of Pine Island Subdivision Regulations.
    - i. Recreation lands and appurtenances;

- ii. Streets and sidewalks;
  - iii. Drainage facilities;
  - iv. Grading improvements;
  - v. Sewer, water, and other utilities.
- K. The city manager shall have the authority to grant waivers and variances to those restrictions and conditions of planned developments that the applicant has established instead of or in addition to the underlying district regulations using the staff permit procedure. The city manager shall not change any condition or restriction that has been imposed by the planning commission or the mayor and commission nor grant any changes to the lot regulations that would be less restrictive than those set by the underlying district regulations. Variance and waiver requests shall be in writing to the city manager. The city manager may request any additional information or documents deemed necessary to make a determination on the requested action.
- L. The approved concept plan constitutes a binding site plan, unless specifically stated in the approved ordinance establishing the conservation subdivision planned development.

#### 3.6.6. Pre-planning Site Visit

The applicant shall schedule a pre-planning site visit to obtain advice and assistance prior to preparing layouts or designs for the proposed subdivision. this consultation shall occur at the site of the proposed subdivision, and shall be attended by applicant, applicant's designer, and city staff. If the applicant is considering putting any of the site into a conservation easement, a representative from a qualified land trust of the applicant's choosing that is active in the protection of land in Waller County shall also be invited to attend the pre-planning site visit.

The purpose of this visit is to discuss the applicant's objectives, review the applicant's documentation and analysis of existing conditions, and discuss optional concepts for subdivision layout and location of open space.

#### 3.6.7. Pre-Planning Site Conference

Following the pre-planning site visit, the applicant shall schedule a pre-planning site conference to obtain advice and assistance prior to preparing layouts or designs for the proposed subdivision. A representative from a qualified land trust of the applicant's choosing active in the protection of land in Waller County shall also be invited to attend the pre-planning site conference.

The purpose of this conference is to discuss the Applicant's objectives, review the applicant's documentation and analysis of existing conditions, and discuss optional concepts for subdivision layout and location of open space.

#### 3.6.8. Sketch Plan

Applicant shall submit a sketch plan for review by the planning and zoning commission following the completion of the pre-planning site visit and the pre-planning site conference, and prior to preparing the conceptual plan. The sketch plan shall be submitted at least 14 days prior to the planning commission meeting at which the Sketch Plan is to be discussed. Any actions taken by the planning commission regarding the sketch plan are non-binding and shall constitute a tentative recommendation only. The sketch plan shall be prepared by a registered architect, registered landscape architect, and/or registered engineer, and shall depict the following information. The sketch plan may be prepared as a simple overlay sheet placed on top of the "Existing Resources and Site Analysis Map," diagrammatically indicating initial thoughts about how the special or noteworthy features of the site may be preserved while providing for the allowed density. The applicant is strongly encouraged to review the sketch plan

with abutting property owners prior to its submittal to the planning commission. For the purposes of planned development review, the sketch plan shall serve as the preliminary development plan.

#### 3.6.9.(Optional) Waller County Health Department Review of Sketch Plan

For proposed subdivisions not intended to be served by public sewer, applicants are strongly encouraged to request an informal sketch plan review meeting with the health department. Applicant should bring to this meeting soils survey data for the entire property, in addition to the sketch plan, and a concept for wastewater treatment.

#### 3.6.10. Conceptual Plans

Conceptual plan submittal requirements: Following the planning commission's review of the sketch plan, the applicant shall submit a conceptual plan for consideration by the Town. For the purposes of planned development conservation subdivision review, the conceptual plan shall serve as the master development plan. Conceptual plan shall be prepared by a registered architect, registered landscape architect, and/or registered engineer, and shall depict the following information. If approved by the governing body, the requirements associated with the approval of the conservation subdivision development shall be in addition to, and shall amend, the requirements associated with the underlying zoning district.

#### 3.6.11. Open Space

- A. Definition. For the purposes of this chapter, open space is defined as the portion of the conservation subdivision that has been set aside for permanent protection for the common use of the residents of the development, or for the use of the community as a whole if so designated. The land designated as open space shall be in single ownership, and shall not be divided among any of the constituent lots of the subdivision. The open space may be left or restored with native vegetative cover. Activities within the open space are restricted in perpetuity through the use of an approved legal instrument and are subject to the terms of this chapter.
- B. At least 75 percent of the open space shall be contiguous. Contiguous open space may be bisected by dedicated street right-of-way. At the point where the open space is bisected by the street right-of-way, the open space must be at least 75 feet in width.
- C. Permitted Uses of Open Space
  - a. Conservation of natural, archeological or historical resources.
  - b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas.
  - c. Walking or bicycle trails, provided they are constructed of porous paving materials;
  - d. Passive recreation areas, such as open fields.
  - e. Active recreation areas, provided that they are limited to no more than ten percent of the total open space and are not located within primary conservation areas. These areas must be clearly indicated on all submitted plans. Active recreation areas in excess of this limit must be located outside of the protected open space. Active recreation areas located in the protected open space may not include impervious surfaces.
  - f. Agricultural uses, including but not limited to, timber harvesting, raising of livestock, crop growth, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within primary conservation areas.
  - g. Landscaped stormwater management facilities and impoundments. Such facilities shall be located outside of primary conservation areas.

- h. Community wastewater disposal systems and individual wastewater disposal systems located on soils particularly suited to such uses. Such facilities shall be located outside of primary conservation areas.
- i. Easements for drainage, access, and underground utility lines.
- j. Other conservation-oriented uses compatible with the purposes of this ordinance.

D. Prohibited Uses of Open Space

- a. Golf courses.
- b. Parking lots and impervious surfaces, unless otherwise permitted in this chapter.
- c. Agricultural activities, including but not limited to, timber harvesting, raising of livestock, crop growth, that are not conducted according to accepted best management practices.
- d. Planting of invasive exotic plant species, such as kudzu, Chinese privet, and Japanese honeysuckle or other species identified as noxious or invasive.
- e. Active recreation areas, including but not limited to tennis courts, basketball courts, or swimming pools.
- f. Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

E. Ownership of open space. The following methods may be used to own open space land and all common facilities:

- a. Homeowners association. A homeowners association representing residents of the conservation subdivision may own the open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the open space and any facilities located thereon shall be borne by the homeowners association.
- b. Private conservation organization. With approval by the Pine Island City Manager, fee simple title of the open space or easements on the open space may be transferred to a private nonprofit conservation organization provided that the conservation organization meets the following criteria set forth herein. The organization shall have a letter from the Internal Revenue Service stating that it is exempt under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3a), and is a qualified conservation organization as defined by the U.S. Treasury Regulations (1.170A-14(c)) intended to exist indefinitely. The organization should also adhere to the Land Trust Alliance's current Statement of Land Trust Standards and Practices and be able to demonstrate such adherence to the City Manager on request. The conveyance shall contain appropriate provisions for proper reverter or retransfer in event the organization becomes unwilling or unable to continue carrying out its functions.
- c. Fee simple dedication to the Town of Pine Island. Pine Island may, but shall not be required to, accept any portion of the common facilities, provided that there is no cost of acquisition to the city and the city agrees to and has access to maintain such facilities.

F. Open space management plan. At the time of submittal of the conceptual plan, applicant shall submit a draft open space management plan that addresses the issues identified below. Included in the draft open space management plan shall be a draft conservation easement and documentation regarding the organization of the homeowner's association, which shall be subject to legal review for content and form. Prior to final plat approval, applicant shall submit a final open space management plan for the management of open space and common facilities that:

- a. Identifies the use(s), restrictions on use(s), ownership, maintenance, and perpetual preservation of the open space areas.

- b. Allocates responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements.
  - c. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the open space and outlines the means by which such funding will be obtained or provided.
  - d. Provides that any amendments to the open space management plan be approved by the City Manager.
  - e. Provides for enforcement of the open space management plan.
- G. Default on maintenance of open space. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, and in the event that other legal remedies available under the open space management plan have failed, the Town of Pine Island may, but shall not be required to, assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowners association, or to the individual property owners that make up the homeowners association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.
- H. Permanent protection of open space. An instrument of permanent protection, such as a conservation easement as described below, shall be placed on the open space concurrent with or prior to the issuance of a land disturbance permit. The open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
- a. A land trust or similar qualified conservation organization; or,
  - b. A governmental entity with an interest in pursuing goals compatible with the purposes of this title. If the entity accepting the easement is not the Town of Pine Island, then a third party right of enforcement favoring the Town shall be included in the easement.
  - c. In no case shall the holder of the conservation easement be the owner of the open space protected by said conservation easement.
  - d. Open space use restrictions. The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this section, as well as any further restrictions the applicant chooses to place on the use of the open space.
- I. Homeowner's Association  
In all cases, a homeowner's association shall be established. Membership shall be automatic and mandatory for all lot owners in the subdivision and their successors. The homeowner's association shall have the power to file liens to collect dues and assessments. Documentation organizing the homeowner's association shall be provided to the City Manager and City Attorney for review in conjunction with the submittal of the draft open space management plan. Approval of the organizing documentation must be received prior to final plat approval.

#### 3.6.12. Violation.

The approved conceptual plan constitutes a binding site plan. The violation of any provision included within the approved conservation subdivision planned development shall constitute a violation of this title.

### 3.7. Use Provisions

#### 3.7.1. Generally

- A. Permitted uses are assigned by zoning category, in accordance with the table of uses of section 3-7.
- B. No use shall be permitted pursuant to this chapter, and no development permit authorizing a use may be authorized, issued, or approved by any officer, official, or agency, unless said use conforms to the provisions and regulations of this Planning and Development Ordinance.
- C. Notwithstanding, uses which are required to be permitted in any zoning category by state statute may be permitted, in accordance with state law, whether or not the use is included in the table of uses.
- D. In cases where a particular use is not identified in the use tables but meets all of the characteristics of and is so similar to a use specifically described below that no difference in impact on the district or adjacent property can be anticipated, the city manager or designee may interpret that use as being included within that similar category and use type. If a use is determined by the city manager or designee to be potentially impactful, it will be required to seek a conditional use permit for the location.
- E. The City Manager or designee shall determine whether a proposed use is included or excluded from the scope of the uses listed in these tables and the provisions concerning particular districts. Uses not listed in the base zoning category may require council approval based on the interpretation of the city manager or designee.

### 3.7.2. Classification of Uses

No building shall be erected, converted, enlarged, reconstructed, moved, structurally altered or used, except for a use permitted in the district in which the building is located.

#### A. Principal Uses

- a. The allowed use table in Sec. 3.8. establishes permitted uses by district. No land shall be used except for a purpose permitted in the district in which it is located.
- b. The primary or predominant use of any lot, parcel, or structure. Where more than one use occurs on a lot, the principal use shall be the use that occupies the greatest floor area or land area, unless otherwise specified by this Ordinance.

#### B. Accessory Uses

- a. An accessory use is any use that is subordinate in both purpose and size, incidental to and customarily associated with a permitted principal use located on the same lot.
- b. No accessory use or structure shall be located, constructed or moved upon a lot until the construction of the main building has commenced. No accessory structure shall be used unless the main building is in use.
- c. Standards for accessory uses are specified in Sec. 3.8.

#### C. Temporary Uses

- a. A temporary use is a use that is in place for a limited period of time only.
- b. Requirements for temporary uses are specified in Sec. 3.7.7.

### 3.7.3. Multiple Uses on a Single Lot

#### A. Generally

Except as provided in this Section or elsewhere in this Ordinance, only one principal use shall be permitted per lot.

#### B. Districts and Designations Allowing Multiple Uses

Multiple principal uses are permitted on a single lot, and within a single building, in the following districts and designations, subject to the standards of this Section and any district-specific standards:

- a. Town Center (TC)

- b. Regional Mixed Use 1 (RMU-1)
- c. Regional Mixed Use 2 (RMU-2)
- d. Boulevard Overlay District (BOD)
- e. Any Planned Development (PD, PD/CS, PD/CE)

C. General Standards Applicable to all Multiple Use Lots

Where multiple principal uses are permitted on a single lot:

- a. Use Compatibility  
Each principal use shall be a use permitted by right or by conditional use approval in the underlying district. Uses combined on a single lot shall be compatible in operation, hours, traffic generation, and external impacts, or shall be separated or buffered as necessary to ensure compatibility.
- b. Applicable Standards  
Each principal use shall comply with all supplemental use standards, performance standards, and operational requirements applicable to that use under this Ordinance.
- c. Parking  
Off-street parking shall be calculated separately for each principal use based on the parking ratios in Article 4, and the total parking requirement shall be the sum of the requirements for each use, except that shared parking reductions may be applied in accordance with **Section [X.XX] (Shared Parking)**.
- d. Signage  
Signage shall be regulated based on the lot as a whole and the building frontage occupied by each use, in accordance with Article [X] (Sign Ordinance). Multiple principal uses shall not entitle a lot to additional freestanding signs beyond those permitted for the lot.
- e. Loading Refuse and Service Areas  
Service areas may be shared among multiple principal uses, provided that the shared facilities are sized to accommodate the combined demand and meet the screening and location standards of Article 4.
- f. Site Plan Review  
Development of a lot containing multiple principal uses shall require site plan review and approval in accordance with Article 2, demonstrating that the proposed combination of uses meets the standards of this Section.

D. Determination of Principal Use for Regulatory Purposes

- a. Where the standard is reasonably divisible (such as parking, loading, or use-specific performance standards), the standard shall be applied separately to each principal use.
- b. Where the standard is not reasonably divisible (such as a single overall lot standard), the standard applicable to the predominant principal use—measured by gross floor area—shall apply, unless the City Manager determines that a more stringent standard applicable to a non-predominant use is necessary to address site-specific impacts.
- c. The City Manager's determination under this subsection may be appealed in accordance with Article 2.

E. Boulevard Overlay Mixed-Use Standards

F. Planned Development Mixed Use Standards

G. Campus Employment Mixed-Use Standards

3.7.4.Principal Uses Not Listed

- A. The City Manager is responsible for categorizing all principal uses. If a proposed use is not listed in a use category, but is similar to a listed use, the City Manager may consider the proposed use part of that use category. When determining whether a proposed use is similar to a listed use, the City Manager must consider the following criteria:
- a. The actual or projected characteristics of the proposed use;
  - b. The relative amount of site area or floor area and equipment devoted to the proposed use;
  - c. Relative amounts of sales;
  - d. The customer type;
  - e. The relative number of employees;
  - f. Hours of operation;
  - g. Building and site arrangement;
  - h. Types of vehicles used and their parking arrangement;
  - i. The number of vehicle trips generated;
  - j. How the proposed use is advertised;
  - k. The likely impact on surrounding properties; and,
  - l. Whether the activity is likely to be found independent of the other activities on the site.
- B. Where a use not listed is found by the City Manager not to be similar to any other permitted use, the use is only permitted following a text amendment.

### 3.8. Use Matrix

#### A. Use Table Key

- a. **Permitted Use (✓)**  
Indicates a use is permitted in the respective district. The use is also subject to all other applicable requirements of the PDO.
- b. **Additional Use Requirements (AR)**  
Indicates a use is permitted in the respective district, subject to a use standard found in the right-hand column of the use table. The use is also subject to all other applicable requirements of the PDO. Additional Use Requirements are detailed in Section 3.7 *Additional Use Requirements*.
- c. **Conditional Use (C)**  
Indicates a use may be permitted in the respective district only after a public hearing by the Planning Commission and approval by the City Council. Conditional uses are subject to all other applicable requirements of this PDO, including any applicable use standards, except where the use standards are expressly modified by the City Council as part of the approval.
- d. **Use Not Permitted**  
A blank / empty cell indicates that a use is not permitted in the respective district.

Residential Uses	R E R	C N - 1	C N - 2	Town Center	R M U- 1	R M U- 2	Campus Employment	Boulevard Overlay*	Definition / Standards	Notes / Standards
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Single-family detached	✓	✓	✓							CN districts limited by well/septic capacity
Rural cluster / conservation subdivision	✓	C								Must preserve <b>≥60%</b> open space; no central sewer in RER
Duplex / cottage court			C							Subject to design standards where applicable
Townhome / small multiplex				C	C					CN-2 limited by TCEQ lot size minimums
Mixed-use residential / apartments				C	C	C				Upper story encouraged in Town Center/R MU-1
Live-work unit				C	C	C				Must meet design standards
Accessory dwelling unit (ADU)										Not Allowed
Manufactured Home	✓									<b>Must meet foundation, skirting, and roof standards</b>

											/Point to design standards
Manufactured Home Subdivision											Not Allowed
Manufactured Home Park											Not Allowed
Mobile Home											Not Allowed / See Article *, Definitions. Existing mobile homes are nonconforming structures.
<b>Ag / Open Space Uses</b>	<b>RER</b>	<b>CN-1</b>	<b>CN-2</b>	<b>Town Center</b>	<b>RMU-1</b>	<b>RMU-2</b>	<b>Campus Emp.</b>	<b>Boulevard Overlay*</b>			<b>Notes / Standards</b>
Barns, silos, ag structures	✓	✓	C								Accessory to ag use
Agritourism / farm stand	✓	C	C	C	C						Parking and traffic review required
Community garden	✓	✓	✓	✓	✓	C	C				

Parks / trails / open space	✓	✓	✓	✓	✓	✓	✓			Encouraged in all districts
Conservation / prairie preserve	✓	✓	✓	C	C		C			May count toward open space requirements
<b>Civic / Institutional Uses</b>	<b>R E R</b>	<b>C N - 1</b>	<b>C N - 2</b>	<b>To wn Ce nt er</b>	<b>R M U- 1</b>	<b>R M U- 2</b>	<b>Cam pus Emp .</b>	<b>Boule vard Overla y*</b>		<b>Notes / Standards</b>
Church / place of worship	C	C	C	C	C	C				Traffic and parking review
School (public/private)	C	C	C					✓		Septic capacity limits in CN
Library / post office / city hall				✓	✓	C		✓		Primary use in Town Center
Community center / amphitheater	C	C	C	✓	✓	C				Noise/lighting standards apply
Fire / EMS / public safety	C	C	C	C	C	C	C			
<b>Retail, Service, Commercial Uses</b>	<b>R E R</b>	<b>C N - 1</b>	<b>C N - 2</b>	<b>To wn Ce nt er</b>	<b>R M U- 1</b>	<b>R M U- 2</b>	<b>Cam pus Emp</b>	<b>Boule vard Overla y*</b>		<b>Notes / Standards</b>



Office, Employment, & Industrial Uses	RER	CN1	CN2	Town Center	RMU-1	RMU-2	Campus Emp.	Boulevard Overlay*		Notes / Standards
Professional office				✓	✓	✓	C	✓		
Medical office / clinic				✓	✓	✓	C	✓		
Artisan / maker space				✓	✓	✓	C	✓		
Light manufacturing					C	✓	✓*			Must be low-impact
Warehouse / distribution						C	✓*			Access to major roadway required
Research / tech / lab					C	✓	✓*			
Resource Extraction										
Solar Farm										
Wind Farm										
Vehicle / RV / Boat Storage										
Mini Storage / Self Storage										
Commercial Kennel	C	C	C		C			C		
Communication / Cell Towers	C	C	C		C	C	C			
Existing industrial							✓			

\* Requires PD-Campus Employment rezoning for new uses.



Brewery / winery / distillery / tasting room	C	C	C	C	C	C		C		Often accessory to ag use in RER
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3.9. Additional Use Requirements

3.9.1. Purpose and Applicability

Due to their nature, some particular uses, though allowed by right, must demonstrate compliance with additional standards in order to preserve the health, safety, welfare and economic stability of the community. The following uses shall be allowed, provided the use meets the standards established herein, and the use is permitted under the zoning district assigned to the property.

3.9.2. Uses Permitted with Additional Standards

- A. Uses listed in the Use Matrix as “Uses Permitted with Additional Requirements” (AR) shall comply with the additional criteria set forth in this section for such uses in addition to other applicable criteria contained in this ordinance. Such uses are permitted by-right provided they meet the specific additional standards set forth in this section.
- B. Approval procedures for uses permitted with additional requirements are found in **CHAPTER\*\*\***.

3.9.3. Temporary Uses

- A. Uses listed in the Temporary Use Table in Section 3.7.7.B shall comply with the additional criteria set forth in this section for such uses in addition to other applicable criteria contained in this ordinance. Such uses are permitted by-right provided they meet the specific additional requirements set forth in this section.
- B. Approval procedures for uses which require a Temporary Use Permit are found in **Section \*\*\***.

3.9.4. Residential Uses

- A. Accessory Apartments
  - a. Only allowed in the TC district;
  - b. The principal use of the property is primarily for business;
  - c. The floor area occupied by the accessory apartment shall be no larger than one-half the area of the total floor area occupied by the main business building, but in no case shall the accessory apartment occupy more than 1,200 square feet; and,
  - d. The residential use is in accord with the on-site business and adjacent land uses within the community.
  - e. Parking for the business must meet the requirements outlined in the parking section of this PDO plus one space per apartment.
- B. Assisted Living Facilities
  - a. Assisted living facilities shall comply with all requirements of chapter 247 and, as applicable, chapter 242 of the Texas Health and Safety Code.
  - b. Assisted living facilities with six (6) or fewer residents shall be permitted by right in any residential district.
  - c. An assisted living facility with more than six (6) residents shall require a conditional use permit in all single-family residential districts.
  - d. An assisted living facility with more than six (6) residents shall be permitted by right in any district where multi-family residential is permitted.

- e. Assisted living facilities shall be separated from other assisted living facility by two thousand five hundred (2,500) feet measured door to door.

C. Group Homes (Community Homes)

- a. Community homes shall be allowed wherever single-family residences are allowed, provided that they conform to the dimensional standards of the property zoning.
- b. To qualify as a community home for persons with disabilities (community home), the home shall be a community-based residential home operated by:
  - i. The Texas Department of Aging and Disability Services; or,
  - ii. A community center that provides services to persons with disabilities; or,
  - iii. A non-profit corporation; or,
  - iv. An entity certified by Texas Department of Aging and Disability Services as a provider under the ICF-IID medical assistance program; or,
  - v. Be classified as an assisted living facility licensed under Health and Safety Code chapter 247.002, with an exterior structure compatible with surrounding residential dwellings, which:
    - 1. Furnishes food and shelter to four (4) or more unrelated persons.
    - 2. Provides personal care services or administration of medication by licensed or authorized person.
    - 3. May provide assistance with or supervision of administration of medication.
    - 4. May provide skilled nursing services for limited purposes.
- c. A community home shall not house more than six (6) persons with disabilities and two (2) supervisors at the same time, regardless of relationship. A request for reasonable accommodation to accomplish the goals and policies of the Fair Housing Act (42 U.S.C. 3601) may be authorized as a conditional use to allow from seven (7) to no more than sixteen (16) residents.
- d. Reasonable accommodation is encouraged where such accommodation may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
- e. A group home shall meet all applicable licensing requirements.
- f. Group homes shall register with the Town of Pine Island.
- g. A current and valid certificate of occupancy issued by the Town of Pine Island is required.
- h. The number of vehicles kept at the community home shall not exceed the number of bedrooms in the home.
- i. Group homes shall be separated from other group homes by two thousand five hundred (2,500) feet measured door to door.

D. Manufactured Home

In addition to the design standards included in Article 4, Community Development and Design, manufactured homes must comply with the following requirements:

- a. HUD-code manufactured homes, as defined in Article [X] of this Ordinance and in Tex. Occ. Code § 1201.003, are permitted as a principal use only in the Rural Estate Residential (RER) zoning district, subject to all applicable development standards of that district and the supplemental standards set forth in Section [X].05 of this Article.
- b. HUD Certification Required: Every manufactured home shall bear a valid, unaltered HUD certification label affixed to each transportable section, and a data plate located in the interior of the unit. Prior to issuance of a development or building permit, the applicant shall provide the certification label number(s) and data plate information to the Building

Official for verification. No permit shall be issued for any unit constructed prior to June 15, 1976, or any unit that cannot be verified as HUD-code compliant.

- c. Permanent Foundation: Every manufactured home shall be installed on a permanent foundation in accordance with:
  - i. The manufacturer's installation instructions;
  - ii. the Texas Manufactured Housing Standards Act (Tex. Occ. Code Ch. 1201) and the rules of the Texas Department of Housing and Community Affairs (TDHCA) governing manufactured home installation ;
  - iii. any applicable NFIP/floodplain management requirements ; and,
  - iv. the standards of the City's adopted Building Code.
  - v. Acceptable permanent foundation systems include a continuous perimeter masonry or concrete foundation, a pier-and-beam system with approved blocking and tie-downs, or a concrete slab-on-grade system, provided the system permanently anchors the unit to the ground and resists applicable wind, load, and other forces. The Building Official may require submission of engineered foundation plans where site conditions warrant.
- E. Prohibition on Tire Ballast and Anchoring: The use of tires, tire stacks, or any tire-derived material as a roof ballast, wind anchor, tie-down, hold-down device, or structural support element for any manufactured home is expressly prohibited. Any manufactured home found to use tires for this purpose shall be deemed in violation of this Ordinance and subject to the enforcement and penalty provisions of **Article [X] (Administration and Enforcement)**. Tires shall also not be used as skirting, skirting support, or exterior decorative screening elements.

### 3.9.5. Non-residential Uses

#### A. Assembly

- a. Assembly is limited in the districts by the seating capacities in the primary facility (this excludes any support facilities such as, education buildings, athletic buildings).
- b. Assembly that directly abuts a residential use shall provide a solid screening fence.
- c. Accessory uses to the principal use, such as schools, coffee houses and daycare facilities, shall only be permitted on site if the assigned zoning category permits the use as a primary use.
- d. Assembly uses shall provide access points as follows:

**INSERT TABLE**

#### B. Automobile repair services

- a. For properties zoned RMU-1 facilities that only service vehicles of seven thousand (7,000) pounds gross weight or less shall be permitted. No service to larger vehicles shall be permitted.
- b. All automobile repair services shall meet the following minimum standards:
  - i. Vehicles may be stored outside overnight, provided that they are completely screened from view from public streets, sidewalks, public spaces and residential lots.
  - ii. Damaged or non operational vehicles will be screened from the right of way, and shall not be stored outdoors for more than 5 business days.
  - iii. No exterior display or storage of new or used automobile parts is permitted.
  - iv. There shall be no storage of motor vehicles in landscaped areas or within ten feet of the public road right-of-way.
  - v. The use shall be designed to ensure proper functioning of the site in regard to vehicle stacking, circulation, and turning movements.
- c. Where an auto repair garage is permitted as an accessory use:

- i. All work shall be conducted wholly within a completely enclosed building.
      - ii. The repair service space shall be separated or structurally partitioned from the retail space.
      - iii. The repair service space shall have a separate entry from the entry used for the retail space.
      - iv. The gross floor area of the auto repair service area shall not exceed the gross floor area of the retail sales area.
    - d. Garage doors or bays shall be completely screened from view if they face a neighborhood street or residential lot, in accordance with the city's screening requirements.
- C. Automobile sales/rental
  - a. Used vehicles may only be sold as an ancillary use to new vehicle sales.
  - b. All outside display of vehicles shall be on an approved concrete surface, enhanced concrete surface, or a surface approved by the City Engineer.
  - c. Vehicle display areas shall meet the landscaping requirements for parking areas.
- D. Bar/ Wine Bar / Tavern / Pub
  - a. Bars shall be located at least one hundred (100) feet from a residential use and shall have an interior square footage of no more than two thousand five hundred (2,500) square feet.
  - b. Bars shall not serve alcohol or play music past midnight in the Town Center (TC) District.
  - c. Bars shall not allow any external amplified sound past 10:00 pm in the Town Center (TC) District.
- E. Bed and Breakfast
  - a. Each bed and breakfast will obtain an annual permit from the city.
  - b. Such uses shall only be located in a detached single-family house.
  - c. No changes shall be made to the building exterior that would detract from its appearance as a single family dwelling.
  - d. Any additions or modifications for the bed and breakfast shall be residential in appearance and compatible with the original structure and surrounding structures and the overall footprint of the original structure.
  - e. Guest rooms shall not have cooking facilities.
  - f. The maximum stay for a guest shall be 14 days.
  - g. An owner/manager of a bed and breakfast shall reside on the property.
  - h. Signage shall be limited to a single post and arm style sign with a maximum height of 6 feet with a sign board not to exceed six square feet or a projecting sign or hanging sign not to exceed six square feet.
  - i. One off-street parking space shall be provided per bedroom.
  - j. Off-street parking must be screened from adjacent residential uses by a six foot high wall or fence, or by evergreen shrubs at six feet on center and a minimum three feet high at planting with a maturity height of not less than six feet, or by a combination of these options.
  - k. Bed and breakfast establishments are permitted solely to provide lodging and breakfast accommodations. Additional activities, including receptions, parties and other events, are not permitted unless specifically authorized by the conditional use permit. Authorization for additional activities will be based on the suitability of the house and property for hosting such events. Specific consideration will be given to the floor plan of the house, the proximity of the house to neighboring houses, the size of the lot,

provisions to buffer the effects of such activities from adjacent property and the ability to provide parking for such events.

F. Car wash

- a. Entrances and exits to the car wash shall not directly face any public street. Where car washes are located on corner lots, entrances and exits shall not face the street with the higher traffic volume, as determined by the city manager or designee.
- b. The car wash structure shall be set back a minimum of fifty (50) feet from any street frontage.
- c. Free-standing vacuuming, cleaning and servicing areas that are not found inside of an enclosed structure shall be set back at least fifty (50) feet from any street frontage.
- d. Car washes shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.
- e. Car washes shall be constructed in a design similar to the building character of the surrounding area.
- f. Vehicles and other material stored on the property before or after the hours of normal business operation shall be stored in the rear yard space of the property, out of view from public streets, public spaces and residential properties.

G. Childcare Center (Day Care)

- a. Any outdoor playscape must be enclosed on all sides by building and/or permitted types of walls/fences and may not be located in the front yard. Outdoor play space may not include driveways, parking areas, or land otherwise unsuited for children's play space.
- b. There is not limit to the hours of operation for such facility, but such facilities shall not serve any client on a continuous 24-hour basis.
- c. Such facilities shall meet all applicable requirements of Waller County and the State of Texas.
- d. All day care centers shall provide sufficient stacking lanes for drop-off and pick-up on the site so that traffic circulation is not impeded on any public right-of-way. An analysis of traffic and stacking is required.
- e. A transportation impact analysis may be required.
- f. A City administrative permit is required.

H. Childcare, In Home

- a. In-home childcare shall be limited to a maximum of six (6) children.
- b. Outdoor play space shall not be permitted within the front yard area.
- c. No signs shall be permitted except for a name plate not exceeding one (1) square foot in size and attached flat to the primary building.
- d. Daycare facility (more than six (6) children, not home occupation). The outdoor play space for childcare centers which abut or are zoned for residential use shall be enclosed by a six (6) foot solid (opaque) fence.
- e. If the adjacent property is zoned residential but is in use as a school, church or park, a fence shall be required, but fencing materials are at the discretion of the applicant, provided the fence conforms to the fencing requirements of the city.
- f. A City administrative permit is required.

I. Drive-thru Facilities

The following general standards shall apply to all drive-thru facilities:

- a. All drive-thru entrances must be at least 50 feet from an intersection. The distance is measured along the property line from the junction of the two street lot lines to the nearest edge of the entrance.

- b. Drive-thru facilities shall be located and designed so that vehicular circulation does not conflict with traffic movements in adjacent streets, service drives, and/or parking areas.
- c. Off-street stacking spaces shall be provided in accordance with the following requirements:
  - i. Stacking spaces shall not interfere with travelway traffic or designated parking spaces.
  - ii. Stacking spaces shall be a minimum of 18 feet in length.
  - iii. Stacking spaces shall be located to the side or rear of the principal structure and shall not be adjacent to any street right-of-way.
  - iv. Off-street parking spaces shall be provided in accordance with the following table:

Stacking Space Requirements		
Type of Activity	Required Number of Stacking Spaces	Start Point for Stacking Spaces
Financial Institutions—Automated teller machine	3	Teller machine
Financial Institutions—Bank teller lane	3	Teller window/tube
Professional Personal Service—dry-cleaning/laundry	3	Cleaner/laundry window
Retail Sales—Pharmacy	3	Pharmacy window
Restaurant	6	Order box/speaker
	4*	Pick-up window
Other	To be determined by the City. Such determination shall consider any study prepared by an engineer or other qualified design professional.	
* These spaces are required in addition to the stacking spaces required to be located behind the order box/speaker and shall be located between the pickup window and the order box/speaker.		

J. Event Venue (Also: Wedding barn)

- a. Structures used for an event in whole or in part and requiring a building permit by Pine Island code must have a valid certificate of occupancy prior to use.
- b. The minimum yard setbacks for the district shall apply to all structures, including but not limited to, tents and portable toilets that are used in whole or in part for the event.
- c. Parking may be provided on a pervious or impervious surface. If the parking area is on grass or in a field, the applicant shall reseed or restore the parking area within 30 days of the event.
- d. The private water supply and onsite sewage system serving the event shall be approved by the City OSSF Direct Representative.
- e. Temporary improvements to accommodate the event, such as but not limited to tents and portable toilets, must be removed within 48 hours of the event's cessation.
- f. Signs advertising the event must comply with the city's sign ordinance.
- g. Lighting for the event must comply with the exterior lighting standards article of this chapter.
- h. There shall be no outdoor use of amplified sound later than 9:00 p.m. on Sundays through Thursdays or later than 10:00 p.m. on Fridays or Saturdays.
- i. In addition to the requirements included here, event venues must also comply with the Town of Pine Island Mass Gathering Ordinance.

K. Gasoline Service Station / Convenience Store.

- a. Applicants shall demonstrate that the use will be compatible with the neighborhood with regards to traffic circulation, parking, and appearance and size of structures.
- b. The primary building shall be set back at least fifty (50) feet from any street frontage.
- c. Accessory structures, including gasoline pumps, canopies, and associated service area, will not be located in the front yard and will be located to the side or rear of the primary structure.
- d. Canopies shall be no more than fourteen (14) feet high gabled roofs with recessed lighting, shall be setback at least ten (10) feet from any property line, and shall cover no more than one thousand five hundred (1,500) square feet of area.
- e. No visibly damaged or junk vehicle may be stored outdoors on the property overnight. No vehicle awaiting repair, maintenance, or pick-up may be stored on the property longer than 48 hours.
- f. All outdoor areas where vehicles are stored temporarily shall be considered parking lots. Such parking lots must be located at the rear of the building and must comply with the applicable provisions of CHAPTER \*\*\*.
- g. Gasoline service stations shall have a maximum of six pumping stations.
- h. A car wash shall only be permitted as an accessory use to a gasoline service station and shall be placed and screened in accordance with the standards for off-street parking areas in CHAPTER \*\*.
- i. Dumpsters shall be located to minimize view from off-site areas and shall be fully screened by a wall constructed of the same material and color as the principal structure.
- j. The city manager may require a traffic analysis to be provided by the applicant. Such analysis may include, but not be limited to, the proposed traffic flows, sight visibility for emerging vehicles, and other public safety factors.

#### L. Home Occupations

- a. Use shall be conducted as an accessory use and shall not change the character of the dwelling unit nor have any exterior evidence of its use.
- b. There shall be no exterior display, exterior storage of materials, or other exterior indication of the home occupation which would cause the structure to vary in character from a residential use.
- c. The type and volume of traffic generated by a home occupation shall be consistent with the traffic generation characteristics of other dwellings in the area.
- d. The home occupation shall not increase the demand on public water, public sewer, or garbage collection services to the extent that its use combined with the residential use of the dwelling shall not be significantly higher than is normal for residential uses.
- e. The home occupation shall generate no nuisance for neighbors or the general public. The equipment used by the home-based business and the operation of the business shall not create any noise, vibration, heat, glare, dust, odor or smoke discernible at the property lines or use or store hazardous materials in excess of quantities permitted in residential structures.
- f. The following uses are not allowable as a home occupation:
  - i. Motorized vehicle repair.
  - ii. Electronics and appliance repair.
  - iii. Small engine repair.
  - iv. Any industrial use.
  - v. Retail sales involving on-site purchases.
- g. Sample sales, garage sales, estate sales and other event-related sales.
  - i. There shall be no more than four (4) sale days per calendar year for a property.
  - ii. Sales events in a residence shall only take place between the hours of 7am and 7pm.

- h. All existing residential single-family residential buildings located in a non-residential district, as of the effective date of this chapter, may be used as both a single-family dwelling and a business. Home occupations in non-residential districts must meet the following requirements:
  - i. There shall be no exterior storage of equipment or materials used in the home occupation at any time.
  - ii. The home occupation must be conducted entirely within a permanently enclosed building, except for those necessary outdoor activities related to a day-care nursery. A private garage which is not completely enclosed shall not be utilized as part of a home occupation.
  - iii. On-site parking in addition to that required for the dwelling shall not be required for those business uses which require three (3) or fewer parking spaces.
  - iv. No automobile engine or small engine repair shall be permitted as a home occupation.
- i. Home occupations in all residential districts shall meet the following requirements:
  - i. Home occupation shall never be permitted as the primary use of the property.
  - ii. No business shall be permitted that principally involves the resale of tangible personal property at the business.
  - iii. No manufacturing or industrial use shall be permitted.
  - iv. No barber shop, beauty shop, carpenter shop, electrician shop, plumber shop, radio shop, or sign painting business shall be permitted. No automobile engine or transmission, or small engine repair or service work shall be permitted as a home occupation.
  - v. All employees must reside on the premises.
  - vi. The home occupation shall not utilize more than twenty-five (25) percent of the gross floor area of the building.
  - vii. No construction features shall be permitted which are not customarily found in a dwelling.
  - viii. No signs identifying the home occupation shall be permitted, except that a single nameplate, not exceeding one (1) square foot in area, may be attached flat to the main building.
  - ix. There shall be no exterior storage of equipment or materials used in the home occupation at any time.
  - x. The home occupation must be conducted entirely within a permanently enclosed building, except for those necessary outdoor activities related to in-home childcare.
  - xi. A private garage which is not completely enclosed shall not be utilized as part of a home occupation.

M. Kennel, Commercial

All commercial kennels must:

- a. Setback 100 feet from the property lines;
- b. Setback 200 feet from any residence not on the associated parcel;
- c. Provide screening that is approved by the City Manager that visually blocks the front and closest side property lines.

N. Micro-Brewery or Micro-Distillery

- a. Outdoor storage of goods and materials used in assembly, fabrication, or processing shall not exceed 25 percent of the gross floor area of all buildings on a lot and shall be

screened from view from any public right-of-way and from all abutting properties by a landscape screen in accordance with the provisions of **CHAPTER \*\***.

b. Such uses may include a beverage tasting facility in RER, TC, and RMU-1.

O. Outdoor retail sales

- a. Permanent outdoor storage and display areas shall be indicated on the site plan submitted to the city.
- b. Outdoor storage, sales and display areas may not exceed ten (10) percent of the enclosed portion of the primary building.
- c. Where allowed for commercially zoned properties, outdoor storage, sales and display areas shall be screened from view of adjacent roadways, public areas and adjacent properties. Such screening shall:
  - i. Be at least eight (8) feet in height or one (1) foot taller than the display area, whichever is greater.
  - ii. Be of one (1) or a combination of the following materials:
    1. Solid screening, using material that matches the primary building.
    2. Landscape screening, provided that the material is evergreen and conforms to the screening standards of the PDO.
    3. Wrought iron accompanied by evergreen landscape screening.
    4. Chain link fencing accompanied by evergreen landscape screening.
    5. Other similar material that meets the screening requirements of the city.
  - iii. Outdoor storage, sales and display areas shall maintain adequate, permanent lighting that complies with the city's Outdoor Lighting Ordinance.
  - iv. Outdoor storage, sales and display areas shall be adjacent to the primary structure or connected to the primary structure.
  - v. Outdoor storage, sales or display areas shall not be located in areas that are used to meet the minimum parking requirements for the property.

P. Outdoor Storage

- a. Permitted only as an accessory use in conjunction with a building, no storage area shall be placed in any building setback area or closer than 40 feet from a street right-of-way.
- b. All areas established for outdoor storage shall be screened from view from any public right-of-way and from all abutting properties by an opaque landscape screen in accordance with the provisions of **Article 4, Community Development and Design**. Wherever security fencing is desired, it shall be placed on the interior side of the screen.
- c. A maximum of two trailers, containers, pods or similar storage devices may be allowed as a temporary use. **See Section 3.7.7.**

Q. Outdoor commercial recreation. Outdoor commercial recreation facilities shall not be located within four hundred (400) feet of residentially zoned land.

R. Private club, lodge, or fraternal organization

- a. The club shall be located at least three hundred (300) feet from a church, school or public hospital at its nearest point, in any direction.
- b. A variance shall be required to locate a private club, lodge or fraternal organization nearer than three hundred (300) feet from a church, school or hospital.
- c. The measurement of the distance between a private club, lodge or fraternal organization and a public or private school shall be:
- d. There shall be no exterior signs advertising the sale of alcoholic beverages, provided this does not prohibit using established trademark names.

- e. The bar area shall not exceed thirty (30) percent of the total floor area of the establishment, whether indoor or outdoor.
- f. If the private club is located in a multi-tenant building, the boundaries of the club are hereby defined as only that portion of the building in which the private club is located, which is separately leased or owned, or with contiguous internal access, should such floor area be leased to more than one (1) party.
- g. No uses that meet the terms or definitions of "sexually oriented business" as defined in this PDO shall be located in a private club.
- h. A copy of the permit approved by the state shall be submitted to the city prior to issuance of a certificate of occupancy, to ensure that the property is in compliance.
- i. All conditional use permits issued for the operation of private clubs may be canceled, suspended, or revoked in accordance with the provisions of this chapter and of the procedures chapter of the PDO, or as the same shall be amended.

S. Resource Extraction

Excavation or filling, borrow pits, extraction, processing, and removal of sand or gravel and stripping of topsoil and other major excavations in a district where listed as a conditional use permit and subject to the following conditions for major borrow pits, clay pits, mines, quarries, sand, and gravel mining and similar operations:

- a. The excavations shall be confined to areas located at least 50 feet from all adjoining property lines, at least 100 feet from any and all adjoining property lines in any residential or any business district, and at least 200 feet from any dwelling or any and all property lines in any platted subdivision except that excavations may be conducted within such limits, provided that the written consent of the owners of such adjoining properties is secured.
- b. The excavation shall be confined to areas located at least 200 feet from the right-of-way lines of any existing or platted street, road or highway, except that where the ground level is higher than the road, the board may permit excavations down to the road level.
- c. Any building containing power-driven or power-producing machinery or equipment shall be located at least 600 feet from all adjacent property in any residential or business district or the right-of-way lines of any existing or platted street, road, or highway.
- d. Access shall not be from a minor residential street. All roadways and all vehicular entrances and exits from the premises on which such operations are conducted to any public roads shall be located to secure public safety, lessen congestion and facilitate transportation, and shall be so maintained as to eliminate any nuisance from dust to neighboring properties.
- e. All equipment used for the production or transportation of materials shall be constructed, maintained and operated in such a manner as to eliminate as far as practicable noises, vibrations, or dust which are injurious or annoying to persons living in the vicinity.
- f. A specific plan of systematic operation and simultaneous rehabilitation shall be submitted to and approved by the City Council which shall provide in all respects for the adequate safeguarding and protection of other nearby interests and the general public health, safety, convenience, prosperity, and welfare, and which shall include a satisfactory plan and program showing, by contour maps and otherwise how the land is to be restored to a safe, stable, usable and generally attractive condition by regrading, draining, planting or other suitable treatment to resist erosion and conform substantially with adjacent land characteristics.
- g. Whenever the special use exception permit issued by the City Council shall have expired, or whenever the operation shall have ceased for any period exceeding 12 consecutive months, then all plants, buildings, structures (except fences), stockpiles and

equipment shall be entirely removed from the premises, and the premises shall be restored as required in this subsection.

- h. The City Council may renew a permit, after a public hearing, provided that an application therefor is filed within 60 days before its expiration date, in the same manner as for an original permit, provided that the applicant is carrying out the requirements of the existing permit in good faith.

T. Short-term rentals

- a. Definitions. As used in this article, unless the context requires a different meaning:

*Booking transaction* means any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.

*Entire-dwelling STR* means a short-term rental in which the entire dwelling is rented and the owner is not on-site during the rental period.

*Guest or transient* means a person who occupies a short-term business rental unit.

*Owner-Occupied STR* means a short-term rental in which the owner or a long-term tenant maintains a primary residence on the property and is on-site during the rental period, including the rental of individual rooms.

*Primary resident (or host)* means the owner of the short-term business rental, or lessee of the short-term business rental with a lease agreement that is one year or greater in length.

*Residential dwelling unit* means a residence where one or more persons maintain a household.

*Short term rental (STR)* means a legally permitted dwelling unit or any portion of any legally permitted dwelling unit that is used or advertised for occupancy, for dwelling, lodging or sleeping purposes for a period of less than 30 consecutive days. This use type does not include bed and breakfast establishments and does not apply to month to month extensions following completion of a year's lease.

- b. City Permit and other requirements

- i. No host shall operate a short-term rental without first obtaining an annual City Permit from the city.
- ii. A registration book must be maintained for one year and be made available for review by the city upon request.
- iii. No signage advertising a short-term business rental shall be allowed.
- iv. License may be revoked if more than two substantiated complaints are received within a one-year period. Revocation is for a minimum of one year but may be permanent at the discretion of the city.
- v. Any short-term business rental in violation of zoning regulations, including operation without a license, is subject to all relevant penalties as set forth by the city.
- vi. The physical and aesthetic impact of required off-street parking shall not be detrimental to the existing character of the house and lot or to the surrounding neighborhood.

- c. Safety. The unit shall meet all applicable building codes for a rental unit and the city may inspect any short-term rental once per year for compliance with applicable building codes.

- d. Site Address. Building (dwelling) will have an approved address placed in a position that is plainly legible and visible from the street fronting the property. Structures obscured

from street view or access roads in excess of 150 feet in length shall additionally post the numerical address at the roadway entrance.

- e. Use Regulations
  - i. No recreational vehicles may be used in conjunction with the short-term rental to increase the occupancy of the rental unit.
  - ii. The host shall not permit occupancy of a short-term business unit for a period of less than overnight.
  - iii. The name and telephone number of the host or the host's designee shall be conspicuously posted within the rental unit for guest(s).
  - iv. The principal guest of a short-term rental unit shall be at least 21 years of age.
  - v. No outdoor amplified music between the hours of 10:00 p.m. and 8:00 a.m.
  - vi. No weddings, receptions, or other assembly-type events unless separately permitted.
  - vii. Trash and recycling containers shall be stored out of view except on collection days.
- f. City Permit suspension or cancellation  
Two or more substantiated violations within a twelve (12) month period may result in revocation of the STR registration or Conditional Use Permit after notice and opportunity for appeal to the City Council.

#### U. Sexually Oriented Businesses

These regulations are authorized by Texas Local Government Code, chapter 243.

- a. Notwithstanding any provision of this chapter to the contrary, it shall be a violation to use or occupy land or a building for the purpose of operating or maintaining a sexually oriented business within one thousand (1,000) feet of a property that is described as follows:
  - i. Another sexually oriented business;
  - ii. Any property within a residential zoning district boundary, whether temporary or permanent, or devoted to a residential use, including any land zoned for one (1) of the aforementioned residential uses which is also described as a Planned Unit Development (PUD) or a unit within a Planned Development District (PDD);
  - iii. Any place of regular religious worship, including property used as a church, synagogue, mosque, or other religious assembly facility;
  - iv. Any public or private elementary, secondary, or high school;
  - v. Any public park; or,
  - vi. Any licensed childcare facility.
- b. Method of measurement and survey requirements.
  - i. Sole Tenant. Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest property line of the lot on which the sexually oriented business is located, to the nearest property line of the protected properties described in the above subsection (a), which requires separation. This method of measurement shall apply to a sexually oriented business that is the sole tenant within one (1) building located on one (1) platted lot.
  - ii. Multiple Tenants. Measurements shall be in a straight line, without regard to intervening structures or objects, from the nearest point of the occupied space of the sexually oriented business to the nearest property line of the protected property described in the above subsection (a) which requires separation. This method of measurement shall apply to a sexually oriented business that is a tenant within a multiple tenant building.

- iii. Easements excluded. In calculating the distances described herein, easements (such as right-of-way, drainage and utility easements) that are zoned as, or abut, a protected property classification, shall not be considered as part of the protected property.
- iv. Surveyor. A certified survey prepared by a licensed surveyor or licensed engineer showing distance measurements in accordance with this subsection shall be submitted to the city manager for all sexually oriented businesses as part of the application for the certificate of occupancy for the use. Any certificate of occupancy issued for a building or facility used to conduct a sexually oriented business without submission of the required survey shall be null and void.
- c. Annexation. Any sexually oriented business annexed by the city after the effective date of this ordinance shall be subject to all the requirements of this section.

#### V. Vehicle Service, Sales / Rental

### 3.10. Accessory Uses

#### A. In General

- a. Accessory buildings and uses are permitted in conjunction with an allowed principal use. Allowed uses include those listed in this section and additional accessory uses as interpreted by the City Manager.
- b. No accessory structure shall be erected on any property prior to the construction of the principal structure, unless such accessory structure shall have been approved by the Planning Commission as a conditional use. An approved accessory structure erected prior to the principal structure shall not be inhabited.
- c. Accessory buildings that are not identified as an accessory dwelling unit must share utility services and meters with the main buildings.
- d. Accessory buildings may have a ½ bath or a kitchen, but cannot contain both a full bathroom and a kitchen. Habitation is not permitted in an accessory building unless it is identified as an accessory dwelling unit.
- e. Dimensional standards for accessory buildings are included with the principal structure standards for each district.

#### B. Automatic Teller Machine (ATM)

- a. Such uses shall be permitted as accessory use to a commercial or institutional use only.
- b. ATMs shall be incorporated within the primary structure and not within a standalone accessory structure.

#### C. Carports

- a. Carports shall be open on at least two (2) sides,
- b. Carports must adhere to the setback requirements for garages.
- c. Carports which are visible from a public street shall be constructed of materials matching those of the primary residential structure.
- d. Porte-cocheres are not carports, and are permitted, provided that they are an attached and structurally integrated component of the house.

#### D. Dumpster / Trash Receptacle

All dumpsters and solid waste containers on nonresidential and multifamily properties shall be enclosed on three (3) sides by a masonry wall no less than six (6) feet in height and on the fourth side by a solid opaque gate. The enclosure shall be located to minimize visual impact from public

streets and shall be accessible to collection vehicles. Enclosures shall be maintained in good repair and kept free of graffiti .

E. Generators

- a. No generator shall be located in front of the main structure.
- b. In TC, CNU-, and RMU-1 the generator must be shielded from public view by shrubbery.

F. Drive-thru Facilities

- a. A drive-thru shall not be located on a property adjacent to a residential use and shall be separated from a residential use by an intervening building.
- b. Stacking spaces, speaker boxes, service windows, and other facilities associated with a drive-thru lane shall be located a minimum of one hundred fifty (150) feet from any residential property boundary.
- c. A drive-thru shall not be accessible from a neighborhood street.
- d. Stacking lanes for service windows shall meet the requirements of Article 4, *Community Development and Design: Nonresidential design*.

G. Electric Vehicle Charging Stations

Electric vehicle charging stations that are publicly accessible shall be considered an accessory use in all commercial, mixed-use, industrial, and institutional zoning districts. Publicly accessible electric vehicle charging stations shall be reserved for the parking and charging of electric vehicles only and information shall be posted indicating that the space is reserved for electric vehicle charging purposes only. Electric vehicle charging equipment must be designed and located to not impede pedestrian, bicycle or wheelchair movement. Property owners may collect a service fee for the use of an electric vehicle charging station. Information shall be posted identifying voltage and amperage levels and any type of use, fee, or safety information related the electric vehicle charging station. Electric vehicle charging stations must be maintained in all respects, including the functioning of the equipment. A phone number, email address, or some other contact information must be provided on the charging equipment for reporting when it is not functioning, or for when other problems are encountered.

H. Greenhouses as Accessory Uses.

Greenhouses which are not used for commercial purposes and which are accessory structures shall conform to the dimensional standards for accessory buildings for the zoning category applied to the property.

I. Limited Outdoor Retail Displays

- a. Limited outdoor retail displays shall only occur during limited portions of the business hours and shall be brought indoors after business hours.
- b. Limited outdoor retail displays are limited in extent to less than ten (10) percent of the entire merchandise area of the retail use.
- c. Limited outdoor retail displays are limited to seasonal sales or events lasting no longer than two (2) weeks at a time, with at least four (4) weeks between consecutive events.

J. Portable Buildings

- a. Portable buildings are only permitted in the rear yard space and must be located outside of the side and rear setback areas of the property.

3.11. Temporary Uses

A. General Standards for All Temporary Uses

- a. Storage of goods in or sale of goods from trailer(s) or vehicles longer than 30 feet on the site are prohibited unless expressly permitted in the table in Section 3.9.B *Standards for Specific Temporary Uses*, below.
- b. Temporary uses and all associated parking shall be conducted behind the average established setback line for structures within 300 feet in either direction on the same side of the street.
- c. Notwithstanding the provisions of Section 3.9.B below, all temporary uses which include temporary off-street parking areas shall require a temporary use permit. Access and parking plans for such uses shall be approved by the Planning Director and made a part of such permit.
- d. Landscaping will be required in accordance with Article 4 for temporary structures that are permitted for more than 6 months.
- e. Board of Health approval, if applicable as determined by the Planning Director, shall be required for certain uses requiring a temporary use permit. When required, such approval must be documented and made a part of the temporary use permit.
- f. At the conclusion of a temporary use, all areas used in conjunction with such use shall be adequately cleaned of all trash and debris.
- g. Notwithstanding the provisions of Section 3.9.B below, all temporary uses which are proposed to encroach upon any public property or right-of-way shall require a temporary use permit. No temporary use permit shall be granted for such uses except where an encroachment agreement has been approved by the applicable governing agency

B. Standards for Specific Temporary Uses

3.12. Uses requiring a Conditional Use Permit (CUP)

- A. Certain primary or accessory uses which have unique and definitive impacts on the community, though not permitted by right, may, if meeting certain conditions, be acceptable in certain zoning districts, as indicated by the table of uses.
- B. Exercise of these uses requires a conditional use permit.
- C. No inherent right exists to receive a conditional use permit; such authorizations are a conditional privilege granted by the city council under a specific set of circumstances and conditions, and each application and situation is unique. Consequently, mere compliance with the generally applicable requirements may not be sufficient and additional measures may be necessary to mitigate the impact of the proposed development.