

10-003A
ZONING ORDINANCE
CITY OF JOHNSON CITY

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ORDINANCE NO. 10-003A
ZONING ORDINANCE

AN ORDINANCE DIVIDING THE CITY OF JOHNSON CITY, TEXAS, INTO DISTRICTS AND WITHIN SAID DISTRICTS REGULATING AND RESTRICTING THE HEIGHT, NUMBER OF STORIES, AND SIZE OF BUILDINGS AND OTHER STRUCTURES, THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACES, THE DENSITY OF POPULATION, AND THE LOCATION AND USE OF BUILDINGS, STRUCTURES, AND LAND FOR TRADE, INDUSTRY, RESIDENCE, AND OTHER PURPOSES, ADOPTING A MAP FOR SUCH PURPOSES; ESTABLISHING A PLANNING AND ZONING COMMISSION; ESTABLISHING A BOARD OF ADJUSTMENT AND PRESCRIBING ITS POWERS AND DUTIES; DEFINING TERMS; REPEALING CLAUSE AND PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCES; PROVIDING PENALTIES FOR THE VIOLATION OF THE ORDINANCE; PROVIDING A SAVINGS CLAUSE AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOHNSON CITY,
TEXAS:

PART ONE. DISTRICTS

Sec. 1.1. Purposes.

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

Sec. 1.2. Districts are established.

1.201. Zoning districts and regulations as herein set forth are established. The

City is hereby divided into three types of districts: R Districts--Residential

C Districts--Commercial

M Districts—Industrial

1.202. The three types of districts are further divided into the following districts:

R-1—Single-Family District		
R-1A— Restricted Single-Family District		
R-2—Multifamily District		
R-3 -- Single-Family Manufactured Home District		
R-M -- Mixed Residential District		
C — Commercial District		
P-C -- Planned Commercial District		
M-P -- Planned Industrial District		
M -- Industrial District		
PUD -- Planned Unit Development-overlay residential zoning		

1.203. The boundaries of the district are as shown on the "district map**" attached to and made a part of this ordinance.

* **Note** --The map referenced to is on file in the City Secretary's office.

1.204. Whenever the council vacates a street or alley, adjacent districts shall extend to the centerline of the vacation.

1.205. Land annexed to City: All new territory hereafter annexed to the City of Johnson City shall be classified as R-1 district except as hereinafter provided.

An ordinance hereafter annexing new territory to the City of Johnson City must include, as a part thereof, a map or plat, showing the zoning classifications for the area being annexed.

When new territory has been annexed to the City of Johnson City without an accompanying zoning plan, the City Planning and Zoning Commission may hold public hearings to determine whether or not any part or all of such newly annexed territory shall be rezoned to comply generally with the master plan of the City of Johnson City. Notice of such hearings shall be substantially in conformity with the ordinances and state statutes regulating the rezoning of the property.

The owner, lessee, or any other person, firm or corporation owning, controlling, constructing, supervising, or directing the construction of any

building or structure which may be in the process of construction and which is incomplete at the time the land upon which it is situated is annexed to the City of Johnson City, Texas, shall apply to the City for such permits as are required on construction authorizing further work and shall attach to his application plans and specifications for the construction of such building or structure. The City staff shall issue such permits if the application shows that such building will comply with the building code and other ordinances, rules and regulations of the City of Johnson City, except zoning, or the construction of such building or structure would not be to the detriment or against the general welfare of the citizens of the City of Johnson City. Should the City of Johnson City make any requirements, decision or determination which the owner or contractor feels does not comply with the zoning ordinance or building codes of the City, the owner or contractor or their representative may appeal the decision of the city to the board of adjustments and appeals.

Sec. 1.3. Effect of the ordinance.

- 1.301. Use of premises and all buildings in the City shall be in accordance with the minimum standards hereinafter established.
- 1.302. Every building shall be on a separate lot. Except as provided in sections 4.206, 4.207 and part seven, more than one dwelling on one lot is prohibited.
- 1.303. Yards, parking space, or lot area required for one dwelling shall not be

used for another building; nor can the size of a lot be reduced below the requirements of this ordinance.

/PART TWO. USE OF LAND OR PREMISES

Sec. 2.1. Scope.

Land or premises in each of the following classified districts in the City of Johnson City shall be used for the following purposes only. Any other use of such land or premises shall be unlawful and in violation of this ordinance.

2.101. In the R-1 single-family residential:

A. Land use:

1. Single-family dwellings only excluding trailers, mobile homes, and HUD Code Type 1.
2. Public parks, playgrounds.
3. Farms, truck gardens, orchards, and nurseries for growing shrubs, flowers, and trees, provided that no retail or wholesale business sales activity is conducted on the premises.
4. Home occupations as defined in section 14.21 of this ordinance.
5. Accessory buildings as defined in section 7.101 of this ordinance.
6. All single-family dwellings shall contain a minimum living area of 1000 square feet and shall meet all other

requirements of the R-1 single-family district as provided by the zoning ordinance or any amendments thereto.

7. Lots will contain 7500 square feet in area.
8. Manufactured homes, which are legally in place at the time of this ordinance takes effect, may remain.
9. *Manufactured homes that are legally in place may be replaced only in accordance with the provisions of Section 2.110 B. 1.2 below. All first time placements and replacements must also comply with the following:*
 - a. Originating title document shall be submitted to the city building inspector at least three (3) working days prior to approval.
 - b. All HUD-code manufactured homes shall be placed on a slab foundation, which shall conform to the International Building Code. All HUD-code manufactured homes shall be skirted, enclosing the open space between the underside of the manufactured home and the ground around the entire perimeter of the structure using a masonry wall or framework to which solid panels are attached, before City utilities will be provided. *Skirting shall be continuous, attractive and match the trim or siding of said manufactured*

home.

- c. Underpinning shall meet or exceed local specifications.*
- d. Siding must be intact with no holes, faded paint, missing pieces or mismatched siding.*
- e. Roof must be attached with clean seams and not create a visual nuisance.*
- f. Windows must be intact with insulated double panes with installed intact screens.*
- g. All plumbing, electrical, and HVAC equipment must meet all applicable State and local codes and be in a safe and operational condition.*
- h. Setbacks apply just as for residential site built homes.*
- i. The manufactured home shall be habitable upon installation on the lot.*
- j. The manufactured home shall be structurally sound, no soft spots on floors, holes in walls, etc.*
- k. Not more than sixty (60) days elapses from the time the old manufactured home is removed and the new one is put in place.*

2.102. In the R-1A single-family residential:

A. Land use:

10. Single-family site built dwellings only excluding trailers, mobile homes, HUD Code Type 1 and HUD Code Type 2.
11. Public parks, playgrounds.
12. Farms, truck gardens, orchards, and nurseries for growing shrubs, flowers, and trees, provided that no retail or wholesale business sales activity is conducted on the premises.
13. Home occupations as defined in section 14.21 of this ordinance.
14. Accessory buildings as defined in section 7.101 of this ordinance.
15. All single-family dwellings shall contain a minimum living area of 1000 square feet and shall meet all other requirements of the R-1 single-family district as provided by the zoning ordinance or any amendments thereto.
16. Lots will contain 7500 square feet in area.
17. Manufactured homes, which are legally in place at the time of this ordinance takes effect, may remain.
 - (a) Manufactured homes that are legally in place at the time this zone takes effect may be replaced with new HUD-code type 2 manufactured homes.

(b) All HUD-code manufactured homes shall be placed on a slab foundation, which shall conform to the International Building Code.

(c) Not more than sixty (60) days elapses from the time the old manufactured home is removed and the new one is put in place.

18. After 10 years from the date this zone takes effect, manufactured homes can only be replaced with site built homes in accordance with this section.

2.103. In the R-2 multifamily residential:

A. Land use:

1. All uses permitted in district R-1.
2. Apartment houses or multifamily dwellings. There shall be no more than six living units per acre computed on the gross area of the lot. No one-bedroom unit shall contain less than 500 square feet of living area. No two-bedroom unit shall contain less than 750 square feet of living area. No three-bedroom unit shall contain less than 1,000 square feet of living area. The minimum lot shall be 8,000 square feet.
3. Special regulations contained in Section 2.2 shall apply to the approval of plans for Apartments Houses and Multifamily dwellings.

2.103(1). In the R-3 single-family manufactured home district, the following uses shall be permitted:

A. Subdivisions located where lots are individually owned:

1. HUD-code manufactured homes may be used as single-family dwellings in accordance with the provisions of this section, and for no other purpose.
- ~~2.~~ All HUD-code manufactured homes, if in a manufactured home subdivision, shall contain a minimum living area of 750 square feet and shall meet all other requirements of the R-1 single-family district as to lot size, height of dwellings, size of yards, parking, open space, recreation areas and
3. All HUD-code manufactured homes shall be placed on a slab foundation, which shall conform to the International Building Code.
4. All HUD-code manufactured homes shall be skirted, enclosing the open space between the underside of the manufactured home and the ground around the entire perimeter of the structure using a masonry wall or framework to which solid panels are attached, before City utilities will be provided.

B. Manufactured Home Parks where lots or spaces are leased or remain essentially under one main ownership:

1. All HUD-code manufactured homes shall be skirted before city utilities will be provided.
2. All HUD-code manufactured homes, if placed in a manufactured home park, shall contain a minimum living area of 750 square feet and shall meet all other requirements of this section except for Section A.4.
3. Rental spaces to be utilized or dedicated to use of each home in a Manufactured Home Park shall be a minimum of 4400 square feet (55 feet by 80 feet).
4. Manufactured homes shall be tied down using HUD approved anchoring system.
5. HUD-code manufactured homes legally permitted, occupying space within a licensed manufactured home park on the effective date of this Ordinance shall be allowed to remain.

2.103(2). All HUD-code Type One manufactured homes shall be located only in a manufactured home park or in a manufactured home subdivision and shall meet all other requirements of this section.

2.104. In the R-M districts:

A. Uses:

1. All uses permitted in R-1 and R-2 districts.
2. Banks.
3. Business or professional offices.
4. Churches.
5. Clinics other than veterinary.
6. Clubs and lodges where the principal activity is not a business.
7. Commercial or private schools.
8. Convalescent or rest homes.
9. Dressmaking, millinery, tailor shops, shoe repair shops and similar neighborhood service type shops.
10. Hospitals other than veterinary.
11. Golf Courses.
12. Municipal buildings, police buildings, fire stations and nonprofit libraries.
13. Nursery, kindergarten and other special day care schools.
14. Personal service shops such as barber and beauty shops.
15. Public schools and private schools having a curriculum equal to a public elementary school, a public high school.
16. Religious, educational and philanthropic institutions, but not animal care.

17. Studios of artists and photographers.
18. Retail sales, excluding automobiles, trucks, motorcycles, farm machinery and equipment, building materials and agricultural and farm supplies, and subject to the following conditions:
 - (a) That all uses or activities are conducted wholly within an enclosed building.
 - (b) Those yards not be used for display, sale, or storage of merchandise, for service to customers, or for the storage of vehicles, equipment, containers or waste materials.
 - (c) That all merchandise be first-hand (not used) and be sold at retail (not deep discount) on the premises.
 - (d) That such use be not objectionable because of odor, excessive light, vapor, dust, steam or other air-borne material, pollutants to air, water or land, noise, vibration, presence of vermin or rodents, or similar nuisances.

B. In the R-M districts the following regulations shall apply:

1. All structures, except accessory buildings, shall face a major street (not a street classified as residential with width of no less than 32 feet.)
2. No existing residential use shall be converted to a

nonresidential use and no new structure to house a nonresidential use shall be occupied until there shall have been constructed along the rear lot line a masonry or solid wood wall that shall be not less than six feet six inches in height.

3. No structure shall be illuminated or displayed by exterior lighting. All exterior lighting on the premises shall be only for safety. No exterior lighting shall be directed so that the illuminating element shall be at a height in excess of seven feet above the average ground level of the lot upon which it is located.
4. No structure housing a nonresidential use shall be constructed having a gross floor area in excess of 7,500 feet.
5. No structure or part of a structure used for nonresidential purposes shall have in excess of 20 percent of the floor area of the structure used for storage or warehousing; all articles, merchandise, or commodities stored upon a premise shall be sold at retail or fabricated upon the premises.
6. Nonresidential buildings shall have the same general character of residential buildings and shall blend into the residential environment. Buildings shall be of the same construction type as residences and shall have the same

requirements with respect to lot coverage and yard allowances as residences.

7. Special regulations contained in section 2.2 shall apply to the approval of plans for R-M districts.

2.105. In the C districts:

A. Land use:

1. All uses permitted in R-1, R-2, R-M.
2. Retail sales excluded in R-M districts provided that such uses be not obnoxious or offensive because of odor, smoke, gas, dust, vibration, presence of vermin or rodents, or similar nuisances.
3. Motels, motor hotels, mobile home parks and trailer parks.
4. Automobile, motorcycle, and truck repair as an accessory use only to an automobile, motorcycle, or truck service center and conducted only within the main building.
5. Special regulations contained in Section 2.2 shall apply to the approval of plans for Commercial (C) Districts.

2.105A. Planned commercial district:

A. Land use:

All uses permitted in the C districts, but plans for such uses shall comply with section 2.2 of this ordinance.

- B. That yards not be used for display, sale, or storage of merchandise, for service to customers, or for the storage of vehicles, equipment, containers or waste materials.

2.106. In the M-P districts:

- A. Land use:
 - 1. All uses permitted in C districts.
 - 2. Sales of goods and products at wholesale.
 - 3. Industrial uses as long as such uses are not obnoxious or offensive because of odor, smoke, gas, dust, pollutants to air, water or land, noise vibration, presence of vermin or rodents or similar nuisances.
- B. Special regulations contained in section 2.2 shall apply to the approval of plans for M-P districts.

2.108. In the M industrial districts:

- A. Land use:
 - 1. Any uses permitted in C and M-P districts.
 - 2. Any building or premises may be used for any purpose not in conflict with any ordinance of the City of Johnson City provided that the following uses are prohibited. Variances may be requested on a case-by-case basis.
 - (a) Any manufacturing or industrial use that is obnoxious

or offensive by reasons of the emission of odor, dust, smoke, gas, noise or pollutants to air, water or land.

- (b) Distillation of bones.
 - (c) Explosives manufacture or storage.
 - (d) Fat rendering.
 - (e) Garbage, offal, or dead animals incineration, reduction or dumping except public recycling.
 - (f) Junkyards or automobile wrecking yards.
 - (g) Petroleum refinery.
 - (h) Slaughter and dressing of animals.
 - (i) Stockyards.
 - (j) Wholesale storage of gasoline or other petroleum products.
 - (k) Canneries.
 - (l) Feed processing and/or grain elevators.
 - (m) Processing or manufacture of dairy products.
 - (n) Commercial stables.
3. Special regulations contained in Section 2.2 shall apply to the approval of plans for Industrial (M) Districts.”

2.109. In the PUD planned unit development overlay district for residentially zoned property:

Land use. Subject to provision of section 2.5.

1. Upon approval of the Planning and Zoning Commission all residential uses permitted in the R-1 districts shall be allowed.
2. Upon approval of the Planning and Zoning Commission, all nonresidential uses permitted in the R-2 and R-M districts shall be allowed so long as they are intended primarily to serve only the residents of the planned unit development and so long as the gross area occupied by such uses, including related parking, does not exceed five percent of the gross area of the planned unit development. Such uses shall not be located on the perimeter of the PUD unless approved by the Planning and Zoning Commission after the showing of good cause by the developer.

2.110. Regulations for mobile homes and HUD-code manufactured homes:

A. Definitions:

1. *Mobile home* means a structure constructed before June 15, 1976, transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on a site, is 320 or more

square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems. For the purpose of this appendix, mobile home shall be construed to include single-section and multi-section. This term does not include a recreational vehicle, or a HUD Code manufactured home as that term is defined by 24 C.F.R. Section 3282.8(g).

2. *HUD-code manufactured home* means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. Section 3282.8(g).
3. *HUD Code Type One*, which shall mean HUD Code manufactured homes commonly referred to as “single wide” and

which are typically 12' to 14' in width and 50' to 60' in length and transported in one section.

4. *HUD Code Type Two*, which shall mean HUD Code manufactured homes commonly referred to as “double wide” and are typically larger than singlewide homes and are transported in two or more sections.
5. This Ordinance shall permit HUD Code Type Two homes to be placed in R-1 and R-3 zoning districts, however, HUD Code Type One homes shall be placed only in the same zoning districts in which mobile homes are permitted to be placed.
6. *Label* means a device or insignia issued by the director of the state department of labor and standards to indicate compliance with the standards, rules, and regulations established by the department of housing and urban development, and is permanently affixed to each transportable section of each HUD-code manufactured home constructed after June 15, 1976, for sale to a consumer.
7. *Manufactured housing or manufactured home* means a HUD-code manufactured home. It does not include a mobile home.
8. *Natural or artificial barrier* means any embankment, fence, hedge or other feature constructed of uniform material that serves to block pedestrian access or visibility to a minimum height of at least six feet.

9. *Anchoring system* means a combination of ties, anchoring equipment and anchoring devices that will, when properly designed and installed, resist overturning and lateral movement of the mobile home or HUD-code manufactured home from wind forces.
10. *Skirting* means enclosing the open space between the underside of a manufactured home and the ground around the entire perimeter of the structure using a masonry wall or a framework to which solid panels are attached.

The definitions of "*mobile home*," "*HUD-code manufactured home*," "*manufactured home*" and "*manufactured housing*" are binding on all persons in this city. A mobile home is not a HUD-code manufactured home and a HUD-code manufactured home is not a mobile home for any purpose under this appendix.

B. Special regulations for modular housing:

1. Single-family modular homes shall be permitted under the same conditions and with the same requirements as any other single-family dwelling structure located in the R-1 and R-3 single-family districts.
2. After the effective date of this Ordinance shall be skirted and anchored in accordance with the requirements of this Ordinance before city utilities will be connected.

C. Nonconforming Mobile Home Use: In the event a nonconforming mobile home use of any premises or lot is discontinued or vacated for a

period of 60 days, the use of the premises or lot shall thereafter conform to the provisions of the district in which it is located.

2.110. Regulations for mobile home parks and manufactured homes:

A. *Definitions:*

1. All definitions contained in this section are for use with and are only applicable as used in connection with this section.
2. "Manufactured home park" means any tract of land under single ownership containing 10 or more manufactured home spaces to be occupied for dwelling purposes, including any buildings, structures, fixtures and equipment used in connection with manufactured homes, regardless of whether or not a fee is charged for such accommodations, and which meets all requirements of the subdivision ordinance relating to subdivision improvements.
3. *Manufactured home space* means a plot of land within a manufactured home park designed for the accommodation of one manufactured home in accordance with the requirements of this section.
4. *Manufactured home subdivision* means a tract of land containing a minimum 15 contiguous acres and shall meet all requirements of the R-1 single-family district as to lot size, height and size of dwellings, size of yards, parking, open

space, recreation areas, accessory uses and subdivision improvements.

B. *Regulations applicable to all mobile or manufactured homes.*

1.1 No mobile home shall hereafter be allowed in the City. This prohibition is prospective only and shall not apply to mobile homes *that were legally placed. A mobile home* may be replaced with type one *or larger* manufactured home if such replacement is made prior to or within 60 days after such mobile home is removed from the property upon which it is located *Manufactured homes may be placed in the City as hereinafter set out. Manufactured homes that were legally placed and occupy a lot in the city may be removed from its location by the owner of the manufactured home and replaced with another manufactured home on the same property provided that the replacement is a newer manufactured home and is at least as large in living space as the prior manufactured home. Such replacement may occur only one time. Provided, however, the owner's ability to replace the home as a result of a fire or natural disaster is not restricted.*

2. HUD Code Type One manufactured homes shall be located only in a manufactured home park or manufactured home subdivision. Such prohibition is prospective and shall not apply to a manufactured home previously legally permitted

and used or occupied as a residential dwelling. Each manufactured home installed after the effective date of this appendix shall be skirted and anchored in accordance with the requirements of these ordinances within 90 days.

3. HUD Code Type One manufactured home parks and manufactured home subdivisions shall be located only in an R-3 district. All manufactured home parks and all manufactured home subdivisions shall be provided with a continuous natural or artificial barrier and all homes within any such park or subdivision shall be skirted and anchored in accordance with the requirements of this section.
4. Development plans for proposed manufactured home park or subdivisions are to be submitted to and subject to the approval of the planning and zoning commission of the city. Such development plans shall exhibit on a scale of 100 feet to one inch (1" = 100') the following site improvement data:
 - (a) Name of the developer.
 - (b) Name of the record owner of the subject property.
 - (c) Legal description of the tract to be developed.
 - (d) Tract boundary lines, the precise locations and width of all existing or recorded streets, easements and other rights-of-way forming the boundary of the subject tract.

- (e) Scale, north arrow and date.
- (f) Final contour data at two-foot intervals to show drainage of the site or as approved by the city engineer.
- (g) Width of each private street or other roadway or right-of-way.
- (h) Source of water supply and layout of water system, including locations of standard fire hydrants required in Section 15, Fire Protection [sic].
- (i) Method of sewage disposal and layout of sewer system.
- (j) Name of the manufactured home park.
- (k) Location, dimensions and purposes of any easements.
- (l) Boundaries of each manufactured home space.
- (m) Address assignment (numbers and/or letters) to identify individual manufactured home spaces.
- (n) Front building setback lines on all manufactured home spaces.
- (o) Location and quantity (in acres) of common recreation area.
- (p) Construction plans for all improvements required by the subdivision ordinance for R-1 single-family

subdivisions.

5. Development plans as formulated for a proposed manufactured home subdivision shall conform to all requirements established by the city subdivision ordinance for single-family subdivisions in an R-1 zone and shall be platted the same as any subdivision for site-built homes.

C. *Manufactured home park or subdivision regulations.*

1. The regulations described herein govern the development operation and maintenance of those manufactured home parks, which (exclusively) accommodate manufactured homes and shall apply to all other manufactured homes hereafter erected in the City (for example under replacement of existing manufactured home or mobile home provisions).
2. Manufactured home park development requirements:
 - (a) The Manufactured Home Park shall be located on a well-drained site, properly graded to insure adequate drainage and freedom from standing pools of water.
 - (b) Manufactured home spaces shall be provided consisting of a minimum of 4,400 square feet for each space which shall be at least 55 feet wide by 80 feet and clearly defined.
 - (c) Manufactured homes shall be placed on each lot so that irrespective of spatial orientation, a 15-foot

separation shall be provided between mobile homes. No manufactured home shall be located closer than 15 feet from any building right-of-way or any property line boundary bounding the park.

- (d) All manufactured home spaces shall provide a paved off-street parking space of not less than 20 by 20 feet, which shall have unobstructed access to a public street, alley or highway. Paved off-street parking facilities in the ratio of two spaces for each manufactured home space shall be provided. Such parking facilities shall be included to satisfy the minimum manufactured home space area requirement and shall be considered when determining separation between manufactured homes. Yard maintenance shall be the responsibility of the park owner.
- (e) All streets within the park shall be constructed in accordance with the subdivision design standards of the city as applicable to subdivisions in an R-1 district, and shall be lighted with guard lights located at intervals of not more than 250 feet. The park owner shall maintain all streets within the park.
- (f) It shall be unlawful for any person operating a

manufactured home park or occupying a manufactured home to construct or permit to be constructed within such park any site-built addition to a manufactured home. Manufactured components and awnings of canvas or metal, suitably constructed, may be attached to a manufactured home.

- (g) No more than one accessory building per manufactured home space shall be allowed. Each such building shall be located within a rear or side yard of the home which it will serve and shall be placed at least five feet away from the rear and side yard lot lines.
- (h) The distance from any part of a manufactured home to an internal road or street shall be a minimum of 15 feet.
- (i) Each manufactured home must be skirted. Skirting shall consist of a framework of lumber or other suitable material, including a decay-resistant bottom sill on the ground, which is sufficiently rigid to adequately support a paneling system. The paneling system shall be fastened to the framework and shall extend from the underside of the manufactured home to the ground around the entire perimeter of the

structure. All joints shall be sufficiently tight to assure the entire assembly is substantially rodent proof. The paneling material shall consist of a durable material that is substantially decay-resistant and such material shall be color coordinated with the exterior of the manufactured home. Non-pre-finished materials shall be color compatible with that of the manufactured home paneling, and shall be fastened to the framework with galvanized or other corrosion resistant fasteners. All materials shall be installed in a neat and workmanlike manner. In lieu of the framework/paneling system described above, a skirting system may consist of a veneer of masonry. Such masonry need not be load-bearing or reinforced, but shall extend from the underside of the manufactured home to the ground around the entire perimeter of the structure. Such masonry shall consist of brick, stone, ashlar, or CMU block. All bed and head joints are to be mortared, approximately three-eighths-inch wide and tooled concave or rubbed. Masonry courses shall be run level, plumb and true to line. The first course shall be laid upon a level concrete footing that is at least as wide as the wall

itself. The wall and all openings in it shall be sufficiently weather tight and rodent proof. Brick, when used, shall be of a color compatible with the exterior of the manufactured home. CMU block, when used, shall have the exterior treated with a compatible CMU block filler and shall then be painted or plastered a color compatible with the exterior of the manufactured home.

- (j) Each manufactured home must be anchored. The anchoring system shall be made and installed according to the Texas Department of Labor and Standards, Manufactured Housing Department Rules applicable as provided by State Law and Regulations.
- (k) No owner or person in charge of any dog, cat or other pet animal shall permit such animal to run at large or commit any nuisance within the limits of any manufactured home park.

D. Application for approval of manufactured Home Park. —Approval process

1. *Application.* Application for an initial manufactured home park approval shall be filed, in writing, in triplicate, with the City Secretary and shall be signed by the applicant and shall include the following information: Application for these parks

shall be submitted to the Planning and Zoning Commission for approval. No building permits shall be issued until a certification as required by (6) below.

- (a) The name and address of the applicant;
- (b) The location and legal description of the manufactured home park;
- (c) A complete plan of the park;
- (d) Plans and specifications for all buildings, improvements and facilities constructed or to be constructed within the manufactured home park;
- (e) A certification that the property within the proposed manufactured home park has been zoned R-3 by the City Council and the Planning and Zoning Commission have approved the development plans.
- (f) A certification that all streets, curbs, gutters and other improvements required by the subdivision ordinance for R-1 single-family subdivisions have been installed in accordance with the subdivision ordinance design standards and specifications and have been approved by the city.

2. *Issuance.*

- (a) Upon the filing of such application, the City Secretary shall refer such application to the proper official of the city. If the

official finds such application and the improvements constructed to be in accordance with the ordinances of the City, he shall issue the license. If he finds such application and the proposed plan to not be in accordance with the provisions of the ordinances of the City, he shall deny such application.

- (b) The City shall act upon each such application for a manufactured home park within 60 days after it is filed with the City Secretary. Failure by the City to approve such application within such time shall be deemed a denial by the City of the application.
- (c) No such license shall be issued unless such manufactured home park shall fully comply with all the provisions of the Ordinances of the City.
- (d) *Transfer.* Upon application in writing for transfer of license issued under the provisions of this chapter, the official of the City shall issue a transfer.
- (e) The license certificate shall at all times be conspicuously posted in the office of or on the premises of the manufactured home park.

E. *Water supply.*

- 1. Manufactured home parks and all spaces within the park shall be connected to the city water system. The City will

inspect connections.

2. All plumbing work performed within a manufactured home park shall comply in all respects with the requirements of the plumbing code ordinance of the City.
3. At least one fire hydrant must be installed within the boundary of the manufactured home park. No manufactured home may be located within a manufactured home park at a distance greater than 500 feet from a fire hydrant.
4. Each manufactured home space shall have an individual water meter.

F. *Sewage disposal.*

1. Wastewater from showers, bathtubs, flush toilets, lavatories, and laundry facilities within the service and/or other buildings within the manufactured home park shall be connected to the Johnson City public sewerage system in compliance with applicable ordinances. The City will inspect connections.
2. All plumbing work performed within manufactured home parks shall comply in all respects with the requirements of the plumbing code ordinance, City of Johnson City.
3. Each individual lot or space shall be individually connected to the city sanitary sewer system.

G. *Garbage receptacles.* Within manufactured home parks, garbage cans possessing secure covers or garbage sacks (tied) must be

used. These receptacles shall be maintained in sanitary conditions at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to insure that said receptacles shall not overflow.

Sec. 2.2. Special regulations for the planned districts.

2.201. Any person, firm or corporation desiring to use land or erect buildings within a planned district shall first submit a plan to the City Secretary showing in detail the manner in which the land is to be used, the location, size, character and appearance of the building, and provision for off-street parking, service areas and landscaping; said plan shall include the entire area within an individual planned district.

2.202. The Council, through the City Secretary shall submit such plan for a recommendation to the Planning and Zoning Commission which shall conduct a public hearing, study and investigate the plan, and make a recommendation to the Council thereon within 45 days after the submission of such plan to the Planning and Zoning Commission by the Council.

2.203. The Planning and Zoning Commission shall make a report and recommendation on the following:

A. Whether or not the plan complies with the regulations of this

Ordinance and all amendments thereto.

- B. Whether or not the plan is consistent with the public interest and purposes of this Ordinance.

2.204. Plans shall be approved and complied with as follows:

- A. The Council, after reviewing the report and recommendations of the Planning and Zoning Commission shall hold a public hearing following the procedures outlined in sections 13.1 and 13.2 of this Ordinance. After the public hearing the Council may approve the plan as originally presented, approve the plan with modifications or may reject the plan in its entirety. If the application and plans are approved with modifications, council shall cause the applicant to be notified of such modifications and only upon receipt of his written consent to such modifications shall the plans be deemed approved.
- B. Buildings may be erected and occupied and land may be used only in accordance with approved plans.

2.205. If plans are disapproved they may be revised and resubmitted following the same procedure as outlined for new plans.

2.206. A fee of \$50.00 to be included with the application shall accompany the application for approval of plans. All notices required to be mailed under this ordinance shall be sent certified mail, return receipt requested.

Sec. 2.3. Nonconforming uses are regulated.

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

2.302. Nonconforming uses may be continued; if there are no structural alterations, such a use may be changed to a use of the same or of less intensity. If it is changed to a use in a higher classification or to a conforming use, it cannot be changed back to the original nonconforming use. For the purposes of this paragraph, the "same classification" means uses permitted in the same districts; a "less intensity" means uses in a district in which the uses have a lower number.

2.303. If a nonconforming use is stopped for one year or more, any subsequent use of the property must conform to the use regulations.

2.304. Except for the two types of uses provided for in [section] 2.305, a nonconforming use cannot be enlarged, extended, reconstructed or structurally altered unless changed to a conforming use.

2.305. Nonconforming light industrial uses in the C districts and nonconforming industrial uses in the M district may be rebuilt, reconstructed, structurally

altered or enlarged if the enlargements do not total more than a 50 percent increase in cubical contents of buildings existing on the date of the passage of this Ordinance.

2.306. If a nonconforming use is damaged or destroyed to an extent of more than 60 percent of its fair market value by a fire, explosion, act of God, the public enemy, or any other reason then its non-conforming status shall cease.

2.307. Where a premises in an R district was used for open storage, such uses must be discontinued and the stored material removed within six months after the effective date of this Ordinance. Where such premises was used for signs and billboards, such uses must be discontinued and the signs and billboards removed within five years from the date such signs were erected, or five years after effective date of this Ordinance.

Where the enforcement of this section would impose an undue hardship on any property owner concerned, said property owner shall have the right to be granted an extension of time (by the Planning and Zoning Commission) as required in this section; provided, however, that such extension of time shall not be granted if it would be adverse to the best interest and general welfare of the citizens of Johnson City.

2.308. Passage of this Ordinance in no way legalizes any illegal uses existing at time of its adoption.

2.309. Residential lots platted before the effective date of this Ordinance shall not be considered nonconforming if not less than 6,000 square feet in area nor less than 60 feet in width.

Sec. 2.4. Certain uses may be located by special permit.

2.401. Uses listed in section 2.402 may locate in certain zones under certain conditions by a special permit granted by the council after a report and recommendation by the Planning and Zoning Commission. After receiving an application for permit the Planning and Zoning Commission shall hold a public hearing to determine the effect of such proposed use upon the neighborhood character, traffic, public utilities, public health, public safety, and general welfare. Such public hearing shall be substantially the same and notices shall be given in accordance with state statutes and City Ordinances regulating the rezoning of property. After receiving the report and recommendation of the Planning and Zoning Commission, the City Council shall also hold a public hearing to be substantially the same required by state statute and City Ordinances regulating the rezoning of property.

Uses for which special permits may be secured, conditions that

may be observed, and districts in which use may be allowed are:

Use	Specific conditions	District
Home occupations	As prescribed by plan commission and approved by city council	Any
Nursery, pre-kindergarten, kindergarten, play, special and other private schools	As prescribed by plan commission and approved by city council	Any
Greenhouse, and nurseries not primarily engaged in retail trade.	As prescribed by planning commission and approved by city council	Any
Trailers and mobile homes.	As prescribed by plan commission and approved by city council	Any
Television and radio broadcasting towers.	As prescribed by plan commission and approved by city council	Any
Model homes sales office.	As prescribed by the commission and approved by city council	R-1, R-2, R-M and PUD
Temporary commercial buildings.	As prescribed by plan commission and city council	P-C

2.403. A fee of \$50.00 shall accompany any application for a special use permit

under provisions of this Ordinance.

Special use permits shall expire at such time as shall be prescribed by the City Council but in no event shall such permit exist for more than one year from date of granting by the City Council.

Sec. 2.5. Planned unit development.

2.501. *Intent.* Ingenuity, imagination and design efforts on the part of builders, architects, site planners and developers can produce residential developments which are in keeping with overall land use intensity and open space objectives of the master plan while departing from the strict application of use, setback, height and minimum lot size, requirements of several zones. The intent of this section is to permit such flexibility and provide performance criteria for planned unit development which permit a creative approach to the development of residential land, enhance the appearance of neighborhoods through preservation of natural features, the provision of underground utilities where feasible and the provision of recreation areas and open space in excess of existing zoning and subdivision requirements; provide an opportunity for new approaches to living environment; and provide an environment of stable character compatible with surrounding residential areas.

2.502. *Rules and procedures.*

A. General. Subject to the regulations, standards and conditions set

forth herein, planned unit developments shall be permitted only after an application for rezoning has been approved. Construction and building permits for a planned unit development or part thereof may be issued only after:

1. Final subdivision approval thereof by the City Council
 2. Filing the approved plan in the office of the County Clerk.
- B. Planning and Zoning Commission rules and procedures. The preparation of all PUD plans, plats, other drawings and narrative materials shall conform to the requirements set forth by the Planning and Zoning Commission rules and regulations that may be amended from time to time.
- C. Public hearing.
1. The application for change in zoning shall be accompanied by a schematic PUD plan or a preliminary PUD plan in sufficient detail to inform neighboring property owners of the type of development being considered.
 2. Within a reasonable period following the receipt of the application, the Commission shall hold a public hearing on said application and plans. Notice of the hearing shall comply with part 13 of this Ordinance.
 3. The Commission shall within ten days after rendering a decision following the closing of the public hearing provided herein, make a report and recommendation on the following:

- a. Whether or not the plan complies with the regulations of this Ordinance and all amendments thereto.
 - b. Whether or not the plan is in the best interest of the City.
 - c. The affect upon adjoining uses, if any.
 - d. Whether or not the plan is consistent with the public interest and purposes of this Ordinance.
4. The report of the Planning and Zoning Commission may recommend approval in whole or in part, with or without modifications and conditions, or recommend that said application and plans be not approved. In making a decision hereunder the Commission may consider any one or more, or all (or none) of the following factors:
- a. In what respects the plan is or is not appropriate to the characteristics of the site and its location in the community pattern;
 - b. The extent to which the plan departs from zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are not deemed to be in the public interest;
 - c. The nature and extent of the common open space in the planned unit development, the reliability of the

proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and function of the open space in terms of the densities and dwelling types proposed in the plan;

- d. The manner in which the proposal does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;
- e. The relationship, beneficial or adverse, of the proposed planned unit development upon the neighborhood in which it is proposed to be established; and
- f. In the case of a plan which proposes development over a period of years, the reasonability of the proposed phasing program in terms of street and utility systems extensions, orderly development of drainage facilities and the degree to which the overall density of development at the completion of each phase conforms to the maximum allowable density for the entire planned unit development, and the reasonability of the amount and location of open

space in each phase.

5. The City Council, after receipt of the recommendations of the Commission, shall process the application for change in zoning in accordance with part 13 of the zoning ordinance. After the hearing, the Council shall disapprove or approve the application or may approve the said application and plans with modifications.
6. If the application and plans are approved with modifications, the Council shall cause the applicant to be notified of such modifications and only upon receipt of his written consent to such modifications shall the change in zoning become effective.

2.503. Requirements.

- A. Minimum size. The minimum size site that may be considered shall contain 10 contiguous acres.
- B. Ownership. The site shall be under the control of one developer or owner.
- C. Site conditions.
 1. The property shall not be subject to hazards such as objectionable smoke, noxious odors, unusual noise, the possibility of subsidence or the probability of flood or erosion.
 2. The condition of the soil, ground water level, drainage, rock

formation, and topography shall be such as not to create hazards to the property or to the health and safety of occupants.

3. Essential community facilities and services, such as employment centers, shopping center, schools, recreation areas, and police and fire protection shall be reasonably accessible to facilities and services on the site.

D. Lot requirements.

1. Yard, setback, lot size, and frontage requirements, may be waived for all residential property for the planned unit development provided that the spirit and intent of this Ordinance are complied with in the total development plan, as determined by the Planning and Zoning Commission.
2. Every dwelling unit either shall have access to a street, walkway or other area dedicated to common use.
3. The location of structures shall be so arranged as not to be detrimental to existing or other proposed structures or to the development of the neighborhood and in no event shall the exterior walls of adjacent buildings be less than 20 feet apart.
4. Buildings shall not exceed the height limits established in section 3.1 of the zoning ordinance.
5. The minimum area, width, front, rear and side yards and

maximum building coverage with respect to lots intended for structures accommodating any allowable nonresidential uses shall conform to the most restrictive requirements set forth for these uses by the provisions of the zoning ordinance.

E. Density. The overall density shall substantially comply with the density that would have been obtained had the tract been developed as it was zoned prior to the adoption of the planned unit development ordinance but the developer may distribute dwelling units over the entire project area without regard to former lot boundaries.

1. Maximum density in overall PUD. The maximum allowable density shall be eight dwelling units per gross residential acre. This acreage shall be determined by subtracting from the total gross area of the development the actual amount of nonresidential land uses including commercial and public uses such as stores, schools, city parks, churches, etc., and parking areas associated therewith but not including any common open space, outdoor recreation area, greenbelt or similar area to be developed by the subdivider as an integral part of the development.

2. Maximum density per phase. When a PUD has been approved for development by phases, then at the discretion

of the Planning and Zoning Commission, the density in a single phase of the development may exceed the allowable density in the entire area of the PUD, but the density in any single phase shall not exceed a maximum of four dwelling units per gross residential acre.

F. Common open space. A variety of open space and recreation area is encouraged such as children's informal play areas which are in close proximity to individual dwelling units and scaled in size according to the concentration of dwellings; formal parks; picnic areas; playgrounds; scenic areas and other communal, noncommercial recreational facilities.

1. Requirement for acceptance. No open area may be accepted as common open space under the provisions of this Ordinance unless it meets the following standards:

a. The location, shape, size and character of the common open space must be suitable for the planned development;

b. Common open space shall be used for amenity or recreational purposes. The uses authorized for the common open space shall be appropriate to the scale and character of the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to

- be provided;
- c. Common open space shall be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space shall be appropriated to the uses which are authorized for the common open space and shall be designed and constructed to enhance the amenities of the common open space;
 - d. The development schedule that is part of the development plan shall coordinate the improvement of the common open space, the construction of buildings, structures, and improvements in the common open space, and the development of residential land in the planned unit development;
 - e. The developer shall create an automatic membership nonprofit homes association;
 - f. The developer shall place title to the common property in the homeowners association prior to conveyance of the first lot to a homeowner;
 - g. The developer shall appropriately limit the uses of the common property;

- h. Each lot owner shall have the right to the use and enjoyment of the common property;
 - i. The developer shall place responsibility for operation and maintenance of the common property in the homeowners association;
 - j. An association charge shall be placed on each lot in a manner which will (1) assure sufficient association funds, and (2) provide adequate safeguards for the lot owners against undesirably high charges; and,
 - k. Each lot owner shall have voting rights in the association.
2. Conveyance and maintenance of common open space. Fee simple title to all common open space, shown on the final development plan shall be conveyed to a corporation, association or other legal entity comprising the homeowners association. The terms of such instrument of conveyance shall include provisions suitable to the City of Johnson City for guaranteeing: (A) The development of the open space as planned; (B) the continued use of such land for the intended purposes; (C) continuity of proper maintenance for those portions of the open space land requiring maintenance; (D) when appropriate, the availability of funds required for such maintenance; (E) adequate insurance protection; and (F)

recovery for loss sustained by casualty, condemnation, or otherwise.

In any event, the developer shall file with the City Secretary, at the time the approved final subdivision plat is filed, documents which will produce the aforesaid guarantees and which will provide a method for restricting the use of common open spaces for the designated purposes.

G. Perimeter requirements. If topographical or other barriers within 200 feet of the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Planning and Zoning Commission shall impose either of the following requirements, or both:

1. Structures located on the perimeter of the development must be set back in accordance with the provisions of the Zoning Ordinance requirements prevailing within the area at the time of the request for change in zoning.
2. Structures located on the perimeter of the development must be well screened in a manner, which is approved by the Commission.

H. Improvements.

1. Circulation facilities. The arrangement of public and common ways for pedestrian and vehicular circulation in relation to other existing planned streets in the area and to the City of

Johnson City master plan, together with provisions for street improvements, shall be in compliance with standards set forth in this ordinance, and in the Subdivision Ordinance except upon application by the developer and for good cause shown, the plan commission may permit deviation from such standards which are consistent with the spirit and intent of the planned unit development regulations.

2. Private streets. Private streets may be permitted however all private streets shall be constructed according to specifications established by the City of Johnson City and maintenance thereon shall be provided for in the manner described above for common areas.
3. Pedestrian circulation. The pedestrian circulation system shall be insulated as completely and as reasonably as possible from the vehicular movement. This shall include, when deemed to be necessary by the Planning and Zoning Commission, pedestrian underpass or overpass in the vicinity of schools, playgrounds, local shopping areas, and other neighborhood uses that generate a considerable amount of pedestrian traffic.
4. Utilities. Whenever reasonably possible, all planned unit developments shall provide for underground installation of utilities (including electricity and telephone) in both public

ways and private extensions thereof.

Provisions shall be made for acceptable design and construction of storm sewer facilities including grading, gutters, piping, and treatment of turf to handle storm waters, prevent erosion and the formation of dust.

- I. Privacy. The development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, or uses and reduction of noise. Any multistory building shall be located within a planned unit development in such a way as to dissipate any adverse impact on adjoining buildings and shall not invade the privacy of the occupants of such adjoining buildings.
- J. Off-street parking. Parking convenient to all dwelling units and other uses, shall be provided pursuant to the minimum requirements of section 6.1 or as otherwise described as a part of the approved planned unit development plan. Where appropriate, common driveways, parking areas, walks and steps shall be provided, maintained and lighted for night use.

Screening of parking areas and drives may be required by the Planning and Zoning Commission where such facilities are located at the perimeter of the planned unit development or where the view

from land adjacent to the planned unit development would be adversely effected by unscreened parking facilities.

2.504. *Revisions to approved planned unit development plan.* The development shall conform to the approved schematic or preliminary plans for the planned unit development and the approved final subdivision plat. The applicant, his successors and assigns shall make no alteration, additions or deletions to the schematic, preliminary or final planned unit development plan, to related documents, or to the site except as provided herein. After final approval, changes may be made only pursuant to a new submission of a planned unit development application, which shall be processed and approved in accordance with this ordinance.

The Planning and Zoning Commission may authorize minor changes however, provided that the developer submit evidence that such minor changes are necessary for a more complete fulfillment of the intent and purposes of this ordinance and that the minor changes will further promote the public interest.

2.505. *Control during construction.* After general construction, which is to be inspected by the City Engineer to insure conformance with the standards of the City) within the planned unit development commences, the appropriate City staff shall consult with the City Engineer and the proper City official at least once every six months, for the purposes of review of

all building permits and actual construction progress. If it is determined that actual construction substantially differs from the construction indicated in the phasing program with the approved final development plan, the City staff shall notify the Council, and the developer, in writing, of its findings. Thereafter, the Council shall have the authority to suspend the developer from further construction with the planned unit development in a manner such that development shall be brought into conformance with the approved phasing program and approved final development plan.

2.506. *Violations.* Whenever the Planning and Zoning Commission or designated City official shall find in the case of any approved planned unit development that any of the terms, conditions, or restrictions upon which such approval was granted are not being complied with, such noncompliance shall constitute a violation of the Zoning Ordinance. Any person or corporation found responsible for such violation shall be subject to the penalties set forth in section [part] 16 of the Zoning Ordinance.

2.507. *Control of planned unit development following completion.*

A. Certificate of completion. The Planning and Zoning Commission shall issue a certificate certifying the completion of the planned unit development or an approved phase of the planned unit development and the clerk of the Planning and Zoning Commission shall note the issuance of the notice on the recorded final

development plan.

B. Modifications after completion.

1. After the certificate of completion has been issued the use of land and the construction, modification or alteration of any buildings or structures within the planned unit development will be governed by the approved final development plan rather than by any other provisions of the Zoning Ordinance.
2. After the certificate of completion has been issued, no changes may be made in the approved final development plan except upon application to the appropriate agency under the procedures provided below:
 - a) Any minor extensions, alterations, or modifications of existing buildings or structures may be authorized by the Planning and Zoning Commission if they are consistent with the purposes and intent of the approved final plan. No change authorized by this section may increase the volume of any building or structure unless approved by the City Council upon the recommendation of the Planning and Zoning Commission.
 - b) Any uses not authorized by the approved final plan but allowable in the planned unit development as a permitted use under the provisions of the Zoning Ordinance may

be added to the final development plan under the procedures provided for by the Zoning Ordinance for the approval of such use.

- c) A building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under the provisions of subsection e below.
- d) Changes in the use of common open space may be authorized by an amendment to the final development plan under the provisions of subsection e below.
- e) All other changes in the final development plan must be made by the City Council under the procedures authorized by this Ordinance for the amendment of the zoning map. No changes may be made in the final development plan unless they are required for the continuance of successful functioning of the planned unit development or unless they are required by changes in conditions that have occurred since the final development plan was approved, or by changes in the development policy of the City.

C. Rights to enforce covenants expressly reserved. No changes in the final development plan which are approved under this section are

to be considered as a waiver of the covenants limiting the use of land, buildings, and structures and improvements within the area of the planned unit development and all rights to enforce these covenants against any changes permitted by this section are expressly reserved.

PART THREE. MAXIMUM HEIGHT LIMITS ARE ESTABLISHED

Sec. 3.1. Buildings shall not exceed the following height limits.

3.101. R-1, R-2 and R-M districts:

- A. For detached single dwellings and accessory buildings the maximum height shall not exceed two stories or 35 feet.
- B. Public and private schools, churches, municipal buildings, and public service buildings may be erected to a height not to exceed 35 feet.
- C. Church steeples and belfries, chimneys, cooling towers, fire towers, monuments, smoke stacks, flag poles, electric and telephone lines and poles, television and radio towers are exempt from height limitations.
- D. Those parts of buildings that are existing at the effective date of this ordinance that violate height regulations may be repaired and remodeled, but may not be reconstructed or structurally altered.

3.102. C and P-C districts:

- A. Two and one-half stories or 35 feet.

3.103. M-P and M districts:

- A. Any building may be erected to a height of 35 feet.
- B. Chimneys, cooling towers, smoke stacks, flagpoles, fire towers, elevator housings, water tanks, television and radio towers are exempt from height limitations.

Sec. 3.2. Existing nonconforming buildings.

Those parts of existing buildings that violate height specifications may be repaired and remodeled, but may be reconstructed or structurally altered only if height will thereafter conform to specifications.

PART FOUR. MINIMUM YARDS ARE ESTABLISHED

Sec. 4.1. Except as provided in sections 4.2 and 4.3 and section part 7, yards shall be provided for buildings as follows.

4.101. R-1, R-2 and R-M districts:

- A. Dwellings shall have:
 - 1. Minimum front yard of 25 feet measured from the property line.
 - 2. Minimum side yard of ten feet measured from the property line.

3. Minimum rear yard of at least 30 percent of the depth of the lot but need not exceed 40 feet.
- B. Churches, public building and institutions shall provide front and rear yards of a minimum of 50 feet and side yards of a minimum of 25 feet.
- C. On corner lots, a front yard must be provided on streets and no wall, fence, sign, structure, or view obstructing plant growth may be maintained within 15 feet of the intersection.

4.102. C, P-C, M and M-P districts: Except as provided in section 4.2 and at the discretion of the Planning and Zoning Commission there are no minimum yard requirements for C, P-C, M districts, or M-P districts.

Sec. 4.2. These general rules for yards must also be observed.

4.201. On corner lots in the R districts, there shall be a yard along the side-street side of such tract of at least 15 feet, except that, in the case of separate tracts which are less than 75 feet in width, only 20 percent of the width of the lot need be provided for such yard, so long as the build able width of a corner lot shall never be less than 30 feet. On corner lots in C and M districts, there shall be a yard along the side-street side of such tract of at least five feet. Provided that in an R district, where the rear yard of a corner lot abuts on the side yard of an adjacent lot, such corner lot shall provide a side yard along the side-street side of such tract that is equal in

width to the depth required for the front yard of such adjacent lot. In those instances where the area adjacent to the rear yard of a corner lot in an R district has not been developed or the preliminary plat for such area has not been approved, such corner lot shall provide a side yard along the side-street side of at least 25 feet, except that the Planning and Zoning Commission may in the exercise of its discretion, permit such side yard to be only 15 feet in width.

4.202. On corner lots in the C, P-C, M-P and M districts that rear upon an R district, a ten-foot yard must be provided along the side-street side.

4.203. Where a block frontage is divided among districts with different front yard requirements, the deepest front yard as required by this Ordinance shall apply to the entire frontage.

4.204. Where a lot is in a C, P-C, M-P or M district and is next to an R district, the side or rear yard required in that R district must be provided along the boundary line.

4.205. In the C, P-C, M-P, and M districts there may be more than one commercial or industrial building on a lot provided that the required yards be maintained around the group of buildings.

4.206. There may be two or more related multifamily, hotel, motel, or institutional buildings on a lot; provided that (a) the required yards be maintained around the group of buildings, and (b) buildings that are parallel, or that are within 45 degrees of being parallel, be separated by a horizontal distance that is at least equal to one-half the height of the highest building, or 15 feet, whichever is greater.

4.207. Those parts of existing buildings that violate yard regulations may be repaired and remodeled, but not reconstructed or structurally altered, except as provided in part eight.

4.208. Required front yards shall be used only for landscaping, walkways, and driveways necessary for access to the parking areas. In the R-M, P-C, C, M-P and M districts and any other planned districts, signs, and light standards may be only of such construction and shall be located only in accordance with plans approved by the Planning and Zoning Commission. No other structures are permitted.

Sec. 4.3. The following exceptions apply in yard regulations.

4.301. On separate tracts of less than 80 feet in width, the side yard may be reduced to ten percent of the tract width.

4.302. On separate tracts of less than 100 feet in depth, the rear yard may be

reduced to 20 percent of the tract depth.

4.303. Where, on the effective date of this ordinance, 40 percent or more of a block frontage was occupied by two or more buildings, then the front yard is established in the following manner:

- A. Where the building furthest from the street provides a front yard not more than ten feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.
- B. Where this A is not the case and a lot is within 100 feet of a building on each side, then the front yard is a line drawn from the closest front corners of those two adjacent buildings.
- C. Where neither A nor B is the case and the lot is within 100 feet of an existing building on one side only, then the front yard is the same as that of the existing adjacent building.

4.304. Sills, belt courses, cornices, and ornamental features may project only one foot into a required yard.

4.305. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than 3 1/2 feet when so placed as to not obstruct light and ventilation, may be permitted by the City of Johnson

City.

- 4.306. Open, unenclosed porches, (not glassed-in) and canopies may extend ten feet into a front yard.
- 4.307. Terraces that do not extend above the level of the ground (first) floor may project into a required yard, provided these projections be distant at least two feet from the adjacent lot line.
- 4.308. Single-family dwellings constructed before the effective date of this ordinance shall not be considered nonconforming as to minimum yards.
- 4.309. In the event a property owner of two or more contiguous platted and approved lots within a platted and approved subdivision desires to build a single structure on said lot, such lots shall be considered as one lot for purposes of this Zoning Ordinance, and, the common property line of said lot shall be deemed not to exist for purposes of side or rear yard requirements. Nothing contained herein shall authorize or be deemed to be an abandonment of any dedicated easement or right-of-way effecting or crossing any such lot or lots and any such easement or right-of-way may be abandoned only by the City Council, in its discretion. Further, as to such lots, only, submission of the site plan to the City at the time an application for a building permit is made, shall be deemed to be a

designation by the property owner of the minimum front, side, and rear yards for said lots and the same shall be deemed to be the minimum front, side, and rear yard requirements for said lot from and after issuance of the building permit applied for, provided that such front, side and rear yards must meet the requirements of this Ordinance.

PART FIVE. MINIMUM LOT AREAS AND WIDTHS

Sec. 5.1. The following minimum lot areas and widths are established.

5.101A. R-1 districts:

- A. For each detached single-family dwelling the minimum lot area shall be 7,500 square feet and the minimum lot width shall be 75 feet except as approved within an approved PUD. In the case of irregular shaped lots where the side property lines are not parallel, the minimum lot width shall be measured along the minimum front yard building set back line as defined in section 4.101.A of this Ordinance.
- B. Residential lots platted before the effective date of this Ordinance shall not be considered nonconforming if not less than 6,000 square feet in area nor less than 60 feet in width.

5.101B. Notwithstanding any of the requirements of this section with respect to -
minimum lot widths, if it be shown by the party seeking the waiver

hereinafter provided for, to the satisfaction of the planning and zoning commission of the City of Johnson City and the city council of the City of Johnson City that any of the requirements of this section with respect to lot widths, if complied with, would work an undue hardship on the subdivider and the City of Johnson City, and that such requirement or requirements concerning minimum lot widths would not be for the best interest and general welfare of the citizens of the City of Johnson City, the said City Council, upon an affirmative recommendation of the Planning and Zoning Commission, may waive such requirement or requirements with respect to minimum lot widths. If the Planning and Zoning Commission fails to make an affirmative recommendation, the requested waiver shall be deemed denied in full by the City of Johnson City, without limitation the Planning and Zoning Commission must make affirmable findings that one or more of the following exist:

1. Special conditions and circumstances exist which are peculiar to the land involved and which are not applicable to other lands in the same district;
2. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
3. That the special conditions and circumstances affecting the property in question are not a result of the actions or inaction of the applicant;

4. That granting the waiver requested would not confer on the applicant any special privilege that is denied by this ordinance to other lands in the same district.

5.102. R-2 districts:

- A. For each detached single-family dwelling the minimum lot area shall be 7500 square feet.
- B. For multifamily dwellings the minimum lot shall be 8,000 square feet.

5.103. C, P-C, PUD, M and M-P districts: Except as may be determined by the plan commission there are no minimum lot areas or widths for C, P-C, PUD and M districts except the minimum lot areas and widths of mobile home parks shall be subject to the approval of the Planning and Zoning Commission and City Council as provided in section 2.2 of this Ordinance but in no event shall parks have less than 10 mobile home spaces nor shall there be more than nine mobile home units per acre computed on the gross area of the lot less that area reserved for recreation use.

PART SIX. OFF-STREET SPACES ARE REQUIRED

Sec. 6.1. The following off-street parking spaces shall be provided.

6.101. For single-family dwellings, two spaces (not including garage area; covered by 6.203 below.

- 6.102. For multifamily dwellings and apartment hotels, two spaces for each living unit. Such spaces shall not be closer than 15 feet to any lot line.
- 6.103. For hotels, one space for each guestroom or suite of the first 20 individual guestrooms or suites; one additional parking space for each two guestrooms or suites in excess of 20 and not exceeding 40; one additional space for each four guestrooms or suites in excess of 40; plus one additional space for each four patron seats in rooms open to the nonresident public; plus one space for each 200 square feet of display area or ballroom area.
- 6.104. For motels, one space for each bedroom unit, plus one additional space for each four patron seats of facilities open to the nonresident public, plus one space for each 200 square feet of display area or ballroom area.
- 6.105. For churches erected on new sites, one parking space on the lot for each four seats in the main auditorium.
- 6.106. For places of public assembly, including auditoriums and theaters, one space for each four seats provided.
- 6.107. For elementary and junior high schools, public, parochial and private, two

spaces for each classroom; for senior high schools, public, parochial and private, seven spaces for each classroom.

6.108 For hospitals, nursing homes, other residential institutions, and public institutions, one space per bed

6.109. For institutions, clubs, lodges, and public buildings, one space for each one hundred square feet of floor area.

6.110. Reserved.

6.111. For retail commercial uses in C, M-P or M districts, one space for each one hundred square feet of floor area.

6.112. A plan for parking must be presented to the Planning and Zoning Commission to be considered.

Sec. 6.2. The foregoing requirements are subject to the following general rules and exceptions.

6.201. In the C, P-C, M-P and M districts, parking space may be provided on separate lot if within 300 feet of the building and two or more such owners may join together in the provision of this parking space, provided such space is sufficient to meet the combined minimum parking requirements

of all such owners joining together; agreements must be executed showing City of Johnson City as beneficiary to ensure conveyance of such an arrangement or to provide for cessation of use if parking is no longer available.

6.202. Parking spaces for dwellings may be provided in only one side and rear yards. On a corner lot in an R-2 or R-M district, no parking shall be permitted in the side yard adjoining the side street unless such parking shall be screened from the public right-of-way by a wall.

6.203. All driveways and required off-street parking shall be paved with or covered with asphalt, paving stone, brick, concrete or aggregate.

6.204. Parking spaces may be provided in any yard in C and P-C districts except that no parking spaces may be provided in the front yard unless the building is set back at least 40 feet from the street right-of-way.

Sec. 6.3. Existing buildings.

Existing buildings not complying with off-street parking requirements may be remodeled, repaired and structurally altered, but any enlargement must provide the parking spaces as required by the enlargement.

PART SEVEN. ACCESSORY USES AND BUILDINGS ARE REGULATED

Sec. 7.1. The following accessory uses are permitted.

7.101. In R-1, R-1A, R-3 and R-M and PUD districts:

- A. Any attached or detached private garage;
- B. Nonpaying guesthouses or rooms for guests within an accessory building, provided others use such facilities only for the occasional and gratuitous housing, or guests of the occupant of principal building and not for permanent occupancy as a dwelling unit;
- C. Sheds or tool rooms;
- D. Children's playhouses;
- E. Vegetable or flower gardens;
- F. Garden houses;
- G. Private greenhouses;
- H. Private tennis courts;
- I. Private swimming pools;
- J. Servants' quarters; and similar uses customarily accessory to a residential use;
- K. Bed and Breakfast overnight facilities.

7.102. In the R-2 district there may also be a storage garage for use solely of the occupants of the premises.

7.103. In C, P-C, M-P and M districts there may be any accessory use.

7.104. Temporary buildings for construction purposes are permitted in any district as accessory buildings during the course of construction.

Sec. 7.2. The following regulations regarding signs shall be observed.

7.201. In R-1 and R-1A districts.

- A. One unlighted sign, which shall not exceed two square foot in area, indicating the name of the occupant or the nature of a home occupation provided the sign is attached flat-wise to the building.

- B. No sign may be located nearer to an R district lot line than is permitted for other business or commercial structures. If located nearer than 50 feet and facing into an R district, they shall not be flashing signs and designed so as not to shine or reflect light into adjacent residences.

Sec. 7.3. Accessory buildings shall be located in accordance with the following rules.

7.301. Accessory buildings and swimming pools must be located in a rear or side yard.

7.302. Any accessory building closer than five feet to a main building shall be considered as a part of the main building and shall be subject to width the

side and rear yards required for the main building.

7.303. Any accessory building more than five feet from a main building may be erected within five feet of a side or rear lot line, but must be located at least 60 feet from the front street line.

7.304. Where a garage is entered from an alley, it must be kept ten feet from the alley line.

7.305. On corner lots, the minimum build able width of 30 feet (see section 4.202) for main buildings is reduced to 22 feet for accessory buildings.

Sec. 7.4. Fences shall be located in accordance with the following rules.

7.401. No fence more than 30 percent solid or more than three feet high may be located within 30 feet of a street intersection.

7.402. Except as provided in [section] 7.401, fences less than six feet high may be located on any part of a lot.

7.403. All premises in an R district used for open storage shall have a solid fence not less than seven feet high completely enclosing the area used for open storage.

PART EIGHT. PLANNING AND ZONING COMMISSION

Sec. 8.1. Creation and purpose.

A Planning and Zoning Commission is hereby created in order to accomplish the following purposes:

- A. To identify community needs and to advise the City Council of their short-range and long-range implications for the total development of the city;
- B. To recommend achievable community goals as a basis for long-range planning and development programs;
- C. To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals; and
- D. To interpret the adopted plans and programs to concerned citizens so that private activities and desires may be accomplished in harmony with public needs and policies.

Sec. 8.2. Membership and appointment.

The Planning and Zoning Commission shall be composed of seven qualified electors and/ or property owners of the city. The City Council will consider for appointment and will appoint to the Commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings. It is the intent of the City Council that members shall, by reason of diversity of

their individual occupations, constitute a Commission, which is broadly representative of the community.

Sec. 8.3. Terms of office.

The terms of office of the members of the Planning and Zoning Commission shall be for two years. Newly appointed members shall be installed at the first regular Commission meeting after their appointment.

Sec. 8.4. Organization.

The Commission shall hold an organizational meeting in May of each year and shall elect a chairperson and vice-chairperson from among its members before proceeding to any other matters of business. The commission shall elect a secretary and such other officers, as it deems necessary either from its membership or from staff representatives assigned by the chief executive of the City to work with the Commission. The Commission shall meet regularly and shall designate the time and place of its meetings. The Commission shall adopt its own rules of procedure and keep a record of its proceedings consistent with the provisions of this Ordinance and the requirements of law.

Sec. 8.5. Duties and powers.

The planning and zoning commission is hereby charged with the duty and invested with the authority to:

- A. Inspect property and premises at reasonable hours where required in the

discharge of its responsibilities under the laws of the State of Texas and of the City.

- B. Formulate and recommend to the City Council for its adoption a City plan for the orderly growth and development of the City and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.
- C. Formulate a zoning plan as may be deemed best to carry out the goals of the City plan; hold public hearings and make recommendations to the City Council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in Vernon's Ann. Civ. St. arts. 1011a to 1011k, as amended V.T.C.A., Local Government Code ch. 211, authorizing cities and incorporated villages to pass regulations; all powers granted under said act are specifically adopted and made a part hereof.
- D. Exercise all the powers of a Commission as to approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats set out in Vernon's Ann. Civ. St. arts. 974a and 970a [V.T.C.A., Local Government Code chs. 42, 43 and 212] except as limited by this Ordinance.
- E. Study and recommend on the location, extension and planning of public rights-of-way, parks or other public places, and on the vacating or closing of same.
- F. Study and recommend on the general design and location of public buildings, bridges, viaducts, street fixtures and other structures and

appurtenances. Study and recommend on the design or alteration and on the location or relocation of works of art, which are or may become, the property of the City.

- G. Initiate, in the name of the City, for consideration at public hearings all proposals: (1) for the opening, vacating or closing of public rights-of-way, parks or other public places; (2) for the original zoning of annexed areas; and (3) for the change of zoning district boundaries on an area-wide basis. No fee shall be required for the filing of any such proposal in the name of the City.
- H. Formulate and recommend to the City Council for its adoption policies and regulations consistent with the adopted City plan governing the location and/or operation of utilities, public facilities and services owned or under the control of the City.
- I. Keep itself informed with reference to the progress of City planning in the United States and other countries and recommend improvements in the adopted plans of the City.

Sec. 8.6. Meeting and quorum.

A quorum for the conduct of business shall consist of four members of the Commission. The members of the Commission shall regularly attend meetings and public hearings of the Commission and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.

Sec. 8.7. Commission actions.

- A. A motion may be made by any member other than the presiding officer.
- B. A motion to approve any matter before the Commission or to recommend approval of any request requiring Council action shall require four favorable votes of the members present. When fewer than all the members are present for the voting and when all motions to recommend on a given application fail to carry by one vote, consideration of the application shall be continued to the next regular meeting upon motion carried by a majority of those present. Provided further that no request or application shall be continued under this rule beyond the next regular meeting; failure of the Commission to secure four concurring votes to approve or recommend approval at said next regular meeting shall be recorded in the minutes as a denial of the proposal under this rule.

Sec. 8.8. Disqualification from voting.

- A. A member shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property under appeal, or that he (or his property) will be directly affected by the decision of the Commission.
- B. A member may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the vote of the member on his application, other than in the public meeting.

PART NINE. BOARD OF ADJUSTMENT

Sec. 9.1. Organization.

9.101. The City Council of the City of Johnson City shall act as the Board of Adjustment under this Ordinance and under the provisions of Section 211.008 of the Texas Local Government Code.

9.102. All cases to be heard by the Board shall be heard by a minimum of three members.

9.103. Meetings of the Board shall be called by the Mayor and at such other times as the board may determine. The Mayor, or the Mayor Pro Tem in the Mayor's absence, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question that shall be a public record.

Sec. 9.2. Jurisdiction.

When in its judgment the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the board of adjustment may after public notice and public hearing given in the same manner as for a zoning change, authorize and shall have the power to grant the following variances on any section in the Ordinance.

9.201. To hear and to decide appeals where it is alleged there is error in any

order, requirement, decision or determination made by the City of Johnson City staff, Planning and Zoning Commission or City Council in the enforcement of this Ordinance.

9.202. To permit any use of public building to be erected or used by the City, County, State or Federal Government.

9.203. Any radio broadcasting station with buffers, fencing (may be site proof), and/or landscaping as required by the City Council.

9.204. Any installation of public utility either privately or publicly owned with height and area regulations of the C district to apply along with buffers, fencing (may be site proof), and/or landscaping as required by the City Council.

9.205. All applications for special exceptions shall be by appeal to the board of adjustment. Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, board or bureau of the City of Johnson City, affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith

transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken or shall submit a brief in support of this action.

9.206. An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

9.207. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. At least 15 days' notice of the time and place of such hearing shall be published in the official publication of the City of Johnson City. Upon the hearing, any party may appear in person or by agent or attorney. The notice provided for in this section shall be given by publication at least once in the official publication of the City of Johnson City, stating the time and place of such hearing, which will not be earlier than 15 days thereto, the Board of

Adjustment shall mail notices of such hearings to the petitioner and to the owners of property living within 200 feet of any point or portion thereof, on which a variation is desired and to all other persons deemed by the Board Chairman to be affected thereby. The depositing of such written notice in the mail by the Board shall be deemed sufficient compliance with purpose of this notice.

9.208. All requests for special exceptions and variances under the Zoning Ordinance shall be presented to the Planning and Zoning Commission for public hearing and said Commission shall make a recommendation to the City Council sitting as the Board of Adjustment on all such requests. Public notice of the hearing and notice to the parties in interest shall be given as provided in section 9.210. All requests for special exceptions and variances shall be accompanied by a fee of \$25.00 plus \$1.00 for each acre or fraction thereof.

9.209. In exercising the above mentioned powers, the Board (9.210.a above) may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

9.210. The concurring vote of three members of the board of adjustment shall be

necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in this ordinance.

9.211. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the City of Johnson City, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board.

9.212 On the presentation of such petition, the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice the Board and due cause shown, grant a restraining order.

9.213 The Board of Adjustment shall not be required to return the original

papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

9.214 If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court within his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly, or may modify the decision brought up for review.

9.215 Costs shall not be allowed against the Board of Adjustment unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

9.216 All issues in any proceedings under this section shall have preference over all civil actions and proceedings.

PART TEN. BOUNDARIES OF DISTRICTS

Sec. 10.1. Rules where uncertainty may arise.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this Ordinance, the following rules apply:

10.101. The district boundaries are street, alley, and property lines unless otherwise shown, and where the districts designated on the map accompanying and made a part of this ordinance are bounded approximately by street, alley, or property line, the street, alley, or property line shall be construed to be the boundary of the district.

10.102. Where the district boundaries are otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be property lines and where the districts designated on the map accompanying and made a part of this Ordinance are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts, unless the boundaries are otherwise indicated on the map.

10.103. In un-subdivided property, the district boundary lines on the map accompanying and made a part of this Ordinance shall be determined by use of the scale appearing on the map.

10.104. In the case of a district boundary line dividing a property into two parts, the district boundary line shall be construed to be the property line nearest the less restricted district.

PART ELEVEN. CERTIFICATE OF OCCUPANCY AND COMPLIANCE

Sec. 11.1. Required.

No building hereafter erected or structurally altered shall be used, occupied, or changed in use until a certificate of occupancy has been issued by the City of Johnson City, stating that the building or proposed use of a building or premises complies with the building code and the provisions of these regulations. A change in use shall be construed to mean any change in the occupancy or type of business.

PART TWELVE. ENFORCEMENT

Sec. 12.1. Administration.

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

PART THIRTEEN. CHANGES AND AMENDMENTS

Sec. 13.1. Council authority, procedure.

The City Council of the City of Johnson City may, from time to time, amend, supplement, or change by ordinance the boundaries of the districts herein established, or the regulations herein contained. Before taking any action the City Council shall submit such proposed amendment, supplement or change to the city Planning and Zoning Commission for a report and recommendation. The City Council shall also give notice to the citizens of the City of Johnson City of such proposed amendment, supplement or change and of a public hearing to be held in connection therewith by publication in the official paper of the City of Johnson City at least once. Such hearing shall not be held earlier than 15 days from the date of publication of said notice. In addition, at least ten (10) days before, written notice of all public hearings before the City Council on proposed changes in classifications shall be sent to owners of real property lying within two hundred feet (200') of the property in which the change in classification is proposed. All other notices required by law shall also be given.

Sec. 13.2. Hearing.

The City Council shall thereafter and in accordance therewith, hold such public hearing. If such proposed amendment, supplement or change fails to receive a favorable report and recommendation by the City Planning and Zoning Commission or if there is a protest filed with the City Secretary against such proposed amendment, supplement or change, duly signed by the owners of 20 percent or more, either of the

area of the lots included in such change, or of those immediately in the rear thereof, extending 200 feet therefrom, or of those directly opposite thereto, extending 200 feet from the street frontage of such opposite lots, such proposed amendment, supplement or change shall not become effective except by a three-fourths vote of all the members of the City Council.

Sec. 13.3. Failure to pass.

If the City Council fails to pass an ordinance approving such proposed amendment, supplement or change, then, and in that event, a new application for such proposed amendment, supplement, or change to the Zoning Ordinance shall not again be considered until after the expiration of six months from the date such proposed amendment, supplement or change was rejected; provided, however, that such application may be reconsidered within the above mentioned six months period, if it be shown to the City that a substantial change in conditions has taken place in the vicinity of the property sought to be rezoned.

Sec. 13.4. Zoning map.

The City shall maintain an official zoning map showing the boundaries of the districts. All changes in zoning shall be placed on the map by showing the boundaries of the area affected together with the date that the change became effective.

Sec. 13.5. Fees.

All requests for zoning changes, except those provided for under section 2.403, shall be accompanied by a fee of \$50.00 to be included with the application. All notices required to be mailed under this Ordinance shall be sent certified mail, return receipt requested.

PART FOURTEEN. DEFINITIONS

The following words, where used in this Ordinance, shall have the meaning thereof described as follows:

Sec. 14.1. Generally.

Words used in the present tense include the future. The singular number includes the plural and plural the singular. "Building" includes "structure." "Shall" and "must" are mandatory.

Sec. 14.2. Accessory building.

A separate building devoted to an accessory use.

Sec. 14.3. Accessory use.

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

Sec. 14.4. Alley.

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

Sec. 14.5. Automobile wrecking yard.

A place for the dismantling, storage, trading or buying and selling of disabled dismantled and damaged vehicles. A damaged vehicle as used herein means any vehicle, which has been involved in a collision in which a re-inspection is required by state law.

Sec. 14.6. Basement.

The part of a building from one floor to the next floor above which has part of but less than one-half its height below grade. If a basement is subdivided and used for dwelling purposes, it is counted as a story; a cellar is not.

Sec. 14.7. Board.

The board of adjustment established in Part Nine.

Sec. 14.8. Build.

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

Sec. 14.9. Build able width.

The width of lot left to be built upon after the side yards are provided.

Sec. 14.10. Building.

Any structure built for use of persons or animals.

Sec. 14.11. Cellar.

The part of a building from one floor to the next floor above which has more than one-half its height below grade. If a basement is subdivided and used for dwelling purposes, it is counted as a story; a cellar is not.

Sec. 14.12. Commission.

City Planning and Zoning Commission of Johnson City, Texas.

Sec. 14.13. Council.

City Council of Johnson City, Texas.

Sec. 14.14. District.

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

Sec. 14.15. Dwelling.

A building used entirely for residential purposes.

14.1501. *Single-family dwelling.* A building that contains only one family unit.

14.1502. *Multiple dwelling.* A building that contains two or more family units.

Sec. 14.16. Family.

One or more persons related by blood, marriage or adoption occupying a living (or family) unit as an individual housekeeping organization. A family may not include more than four persons not related by blood, marriage, or adoption.

Sec. 14.17. Floor area.

The square feet of floor space within the outside line of walls and including the total of all space on all floors of a building. It does not include porches, garages, or space in a basement or cellar not used for dwelling purposes.

Sec. 14.18. Grade.

The average level of the finished surface of the ground for buildings more than five feet from a street line. For buildings closer than five feet to a street, the grade is the sidewalk elevation at the center of the building. If there is more than one street, an average sidewalk elevation is to be used. If there is no sidewalk, the City Engineer shall establish the sidewalk grade.

Sec. 14.19. Half-story.

The space under a sloping roof; all of which space must be at least three feet high, but not more than 60 percent of which floor area may be finished off for use.

Sec. 14.20. Height of a building.

The vertical distance from the grade to (a) the highest point on a flat roof, (b) the

deck line of a mansard roof, or (c) the mean height between eaves and ridge for gable, hip and gambrel roofs.

Sec. 14.21. Home occupation.

An accessory use; an activity carried on only by a resident member of a family meeting these conditions:

- A. Only one non-illuminated sign no larger than two square foot in area is used.
- B. Nothing is done to make the building appear in any way as anything but a dwelling.
- C. If some product is made as part of the activity.
- D. No one is employed from outside the resident family.
- E. Mechanical equipment used is only that normally used in, or found in a single-family dwelling.
- F. A beauty shop shall not be considered a home occupation.

Sec. 14.22. Hotel.

A dwelling not consisting of living units and occupied by more than 20 persons. Apartment hotel is multiple dwelling under resident supervision which maintains an inner lobby through which all tenants must pass to gain access to the apartments and which may furnish services ordinarily furnished by hotels; such as drugstore, barbershop, cosmetologist's shop, cigar stand, or newsstand, when such uses are located entirely within a building with no entrance from the street

or visibly from any sidewalk, and having no sign or display visible from the outside of the building indicating the existence of such use.

Sec. 14.23. Lodging house.

A dwelling consisting of not more than one living unit occupied by not more than 20 persons not related by blood, marriage, or adoption. This term includes rooming house, boardinghouse, tourist home, and nursing home.

Sec. 14.24. Manufactured, Mobile, Modular.

A manufactured home shall meet all HUD and State standards for such and shall be transported to the site on wheels. All wheels and transportation systems shall be removed from the home and the home shall be permanently affixed to the lot.

A mobile home shall meet all HUD and State standards for such and shall be transported to the site on wheels. The transportation system shall remain fixed to the structure.

A modular home shall be constructed of components manufactured off-site and transported to the site for assemblage and erection.

Sec. 14.25. Lot.

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

Sec. 14.26. Lot width.

The width of a lot at the front yard line.

Sec. 14.27. Main building.

The building occupied by the primary use.

Sec. 14.28. Motel.

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

Sec. 14.29. Office building.

A building designed for or used as the offices of professional, commercial, industrial, religious, public or semipublic persons or organizations provided that no goods, wares, or merchandise shall be prepared or sold on this premise.

Sec. 14.30. Parking space.

An area on a lot sufficient in size to store one automobile (not less than nine feet wide and 20 feet long) connected to a public street or alley by a driveway not less than ten feet wide and so arranged as to permit ingress and egress of the automobiles at all times without moving any other automobile parked adjacent to the parking space. The parking space and connecting driveways shall be paved with asphalt, paving stone, brick, or concrete.

Sec. 14.31. Premises.

Land together with any buildings or structures occupying it.

Sec. 14.32. Private garage.

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

Sec. 14.33. Public building.

The term "public building" shall mean any building owned or used exclusively by the city, county, state or federal government.

Sec. 14.34. Separate tract.

A parcel of land or a group of contiguous parcels of land under one ownership on the effective date of this ordinance.

Sec. 14.35. Sign.

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

Sec. 14.36. Story.

The part of a building from one floor to the next floor above or the ceiling above if

there is no floor above.

Sec. 14.37. Street.

Property dedicated for and accepted by the City of Johnson City for primary public access to lots.

Sec. 14.38. Structure.

Anything built that requires a permanent location.

Sec. 14.39. Structural alteration.

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

Sec. 14.40. Trailer.

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

Sec. 14.41. Yard.

An open space on the same lot as a building except as provided herein it is unoccupied and unobstructed by a structure. Yard width or depth is the shortest horizontal distance from a lot line to the main building.

14.4101. Front yard. The area from one side lot line to the other side lot line and

between the main building and the street on which the lot fronts. On corner lots (lots abutting on two or more streets at their intersections) the front yard shall face the shortest street dimension of the lot except that if the lot is square, i.e., has dimensions in a ratio of from 3:2 to 3:3, then the front yard may face either street.

14.4102. Rear yard. The area from one side lot line to the other side lot line and from the main building to the rear lot line.

14.4103. Side yard. The area from the front yard line to the rear yard line and from the main building to a side lot line.

Sec. 14.42. City.

City of Johnson City, Texas.

Sec. 14.43. Mobile home park.

A parcel of land under single ownership that has been planned and improved for the placement of mobile homes for single-family non-transient occupancy.

Sec. 14.44. Trailer park.

A parcel of land under single ownership, which has been planned and improved for transient use by travel trailers, pickup coaches, motor homes or camping trailers.

Sec. 14.45. Landowner.

The legal or beneficial owners or owners of all the land proposed to be included in a planned unit development. The holder of an option or contract to purchase or other person having an enforceable proprietary interest in such land shall be deemed to be a "land owner" for the purpose of this Ordinance.

Sec. 14.46. Planned unit development.

An area of land controlled by a landowner, such area to provide for development incorporating a single or a variety of residential and related uses, which are planned and developed as a unit.

Sec. 14.47. Common open space.

A parcel or parcels of land or an area of water or a combination of land and water within the site designated for a planned unit development and designed and intended for the use or enjoyment of residents of the planned unit development. Common open space may contain such complimentary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the planned unit development.

PART FIFTEEN. REPEALING CLAUSE AND PRESERVING RIGHTS IN PENDING LITIGATION AND VIOLATIONS UNDER EXISTING ORDINANCE

State law reference(s)--Municipal zoning authority, V.T.C.A., Local Government Code

Ch. 211; procedures for amending zoning ordinance, V.T.C.A., Local Government Code §§ 211.002, 211.006, 211.007.

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

PART SIXTEEN. PENALTY FOR VIOLATION

Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building or use in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and shall be liable to a fine of not more than \$2000.00 and each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any building or premises or part thereof, where anything in violation of this Ordinance shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith and who may have assisted in the Commission of

any such violation shall be guilty of a separate offense; and upon conviction shall be fined as herein provided. Provided however, that the City shall also be entitled to any other remedy at law available to the City.

PART SEVENTEEN. SAVINGS CLAUSE

If any section, paragraph, subdivision, clause, phrase, or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof other than the part so declared to be invalid or unconstitutional.

PART EIGHTEEN. MISCELLANEOUS

Sec. 18.1 Code of Ordinances.

It is the intention of the Council that this ordinance shall become a part of the Code of Ordinances of the City of Johnson City, Texas, and may be renumbered and codified therein accordingly.

Sec. 18.2 Effective Date.

This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code, and it is accordingly so ordained.

Sec. 18.3 Open Meetings.

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on this the 4th day of April, 2010

The City of Johnson City, Texas

Kermit A. Roeder, Mayor

ATTEST:

Pat Dildine, City Secretary