

02-04

PLANNING AND ZONING ORDINANCE

REVISED DRAFT: 04/02

APPROVED BY ZONING BOARD: 04/16/02

2002

CITY OF MARFA, TEXAS

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ATTACHMENTS:

Zoning Map

Subdivision Regulations – Ordinance 01-04

Attachment #1

Attachment #2

ARTICLE I

WHEREAS, the City Council of the City of Marfa, did on the 11th Day of JUNE, 2002, receive the final report of the City Zoning Board recommending adoption of the Planning and Zoning Ordinance in its final form and recognized the need for planning and zoning regulations to properly safeguard the general public welfare, health, peace and safety of the community, the City Council determined that the Planning and Zoning Ordinance be adopted.

Section I

Enacting Clause:

1.1 That Ordinance No. 480, known as the Zoning Ordinance of the City of Marfa, together with all amendments and maps thereto, be and the same are hereby repealed, and that there be enacted in lieu thereof the following Planning & Zoning Ordinance of the City of Marfa, together with a map creating and delineating Zoning Districts, which map defines the boundaries of each use District.

SECTION 2

PURPOSE:

- 1.1 It is hereby declared to be the purpose and intent of the City Council in enacting this ordinance that the regulations and districts as herein established have been made in accordance with a comprehensive plan for the purpose of promoting the health, safety, morals and general welfare, and protecting and preserving places, buildings and areas of historical, cultural and/or architectural importance and /or significance, within the City of Marfa. Furthermore, consideration may be given to existing buildings, properties and their uses consistent with the Non-Conforming Uses section of this ordinance, such that those existing conditions and uses are "grand-fathered" and in keeping with the historic and/or cultural values of the City. An additional purpose and intent of this ordinance is not to use the "one size fits all" or cookie-cutter" approach in the implementation and administration of these regulations, n consideration of preserving the historic and cultural uniqueness of Marfa. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and another dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of populations; to facilitate the adequate provision of transportation, water, sewerage, schools and 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 specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City consistent with a comprehensive plan.

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SECTION 3

- 3.1 The boundaries of zoning districts set out herein are delineated upon a Zoning District Map of the City adopted as part of this ordinance as fully as if the same were set fourth herein in detail.
- 3.2 One original and additional copies of the Zoning District Map shall be filed in the office of the City Administrator. This shall be the official Zoning District Map and shall bear the signature of the Mayor and attestation of the City Administrator. This map shall not be amended except upon approval of the City Council. In case of any question, this map, together with amending ordinances, shall be controlling.

SECTION 4

ZONING DISTRICT BOUNDARIES

- 4.1 Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- 4.2 Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- 4.3 Boundaries indicated as approximately following city limits shall be construed as following city limits.
- 4.4 Boundaries indicated as following railroad lines shall be construed to be established centerline of the right-of-way or if no centerline is established, the boundary shall be interpreted to be midway between the right-of-way lines.

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SECTION 5

COMPLIANCE REQUIRED

5.1 All land, buildings, structures or appurtenances thereon located within the City which are hereafter occupied, used, erected, altered or converted shall be used, placed and erected in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located except as hereinafter provided. Land used in meeting the requirements of this ordinance with respect to a particular use or building shall not be used to meet the requirements for any other use or building.

SECTION 6

PRESERVING RIGHTS AND CONTINUITY IN ENFORCEMENT, PENDING LITIGATION, AND VIOLATIONS UNDER ORDINANCE (PRIOR ORDINANCE) AND AMENDMENTS THERETO.

6.1 By the passage of this ordinance, no presently illegal use or building shall be deemed to have been legalized unless such use falls within a use district where the actual use and standards under the terms of this ordinance would be conforming. Any use which does not conform to provisions of this ordinance shall be a nonconforming use or structure if it legally existed as a conforming or nonconforming use or structure prior to adoption of this ordinance or an illegal use if it did not exist as a conforming or nonconforming use or structure, 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 previous zoning ordinance was repealed and this 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 within all respects as if such prior ordinance had not been repealed.

SECTION 7

NEWLY ANNEXED AREAS

- 7.1 All territory hereafter annexed to the City of Marfa shall be classified in the zoning classification(s) which most closely resemble the use(s) of the properties at the time of annexation and upon approval of the City Council of the City of Marfa.
- 7.2 The procedure for amending the zoning on any annexed territory shall be the same as is provided by law for the amendment of the Planning and Zoning Ordinance.

ARTICLE 2

DEFINITIONS

SECTION 1

INTERPRETATION OF WORDS AND TERMS

1.1 For the purpose of these regulations certain terms and words are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory.

- (1) **ACCESSORY BUILDING:** A subordinate building or a portion of the main building, located on the same lot as the main building, the use of which is incidental to that of the dominant use of the building or premises.
- (2) **ACCESSORY USE:** A use customarily incidental, appropriate and subordinate to the principal use of land or buildings and located upon the same lot therewith.
- (3) **ADVERTISING SIGN OR STRUCTURE:** Any cloth, card, paper, metal, glass, wooden, plastic, plaster, stone sign or other sign, device or structure of any character whatsoever, including a statuary, place for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building or structure. The term "place" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, craving, or otherwise fastening, affixing or making visible in any manner whatsoever. The area of an advertising structure shall be determined as the area of the largest cross-section of such structure. Neither directional, warning nor other signs posted by public officials in the course of their public duties nor merchandise or materials being offered for sale shall be construed as advertising signs for the purpose of this Ordinance.
- (4) **ALLEY:** A minor right-of-way, dedicated to public use, which affords a

secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.

- (5) **APARTMENT HOUSE:** See Multiple Family Dwelling
- (6) **AUTOMOBILE:** A self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, trucks, busses, motor scooters and motor cycles.
- (7) **BASEMENT:** A story partly or wholly underground. For purposes of height measurement a basement shall be counted as a story when more than on-half of its height is above the average level of the adjoining ground or when subdivided and used for commercial of dwelling purposes by other than a janitor employed on the premises.
- (8) **BOARDING HOUSE/BED & BREAKFAST:** A dwelling other than a hotel where for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three (3) or more, but not exceeding twenty (20), persons on a weekly or monthly basis.
- (9) **BUILDING:** Any structure intended for shelter, housing or enclosure for persons, animals or chattel. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate building.
- (10) **BUILDING HEIGHT:** The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.
- (11) **BUILDING, MAIN:** A building in which is conducted the principal use of the lot on which it is situated. In a residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.
- (12) **CHILD CARE CENTER:** Any place, home or institution which receives three or more children under the age of thirteen (13) years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians, when received for regular periods of time for compensation; provided, however, this is operated or approved under the laws of this State, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodian person, or to churches or other religious or public

institutions caring for children within the institutional building while their parents or legal guardians are attending services or meetings or classes or other church activities.

- (13) **COVERAGE:** The lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.
- (14) **DISTRICT:** Any section or sections of the City which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.
- (15) **DWELLING:** Any building or portion thereof, which is designed or used as a living quarters for one or more families, but not including trailer homes. (See Trailer Home)
- (16) **DWELLING, SINGLE-FAMILY:** A detached dwelling designed to be occupied by one family.
- (17) **DWELLING, TWO-FAMILY:** A detached dwelling designed to be occupied by two families living independently of each other.
- (18) **DWELLING, MULTIPLE:** A detached dwelling designed to be occupied by three or more families living independently of each other, exclusive of hotels or motels.
- (19) **FAMILY:** One or more persons related by blood, marriage, or adoption, or a group of not to exceed five persons not all related by blood or marriage, occupying a boarding or lodging house, hotel, club, or similar dwelling for group use.
- (20) **GARAGE APARTMENT:** A dwelling unit for one family erected above a private garage.
- (21) **GARAGE, PARKING:** Any building, or portion thereof, used for the storage of four or more automobiles in which any servicing which may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided.
- (22) **GARAGE, PRIVATE:** An accessory building or a part of a main building used for storage purposes only for automobiles used solely by the occupants and their guests of the building to which it is accessory.
- (23) **GARAGE, REPAIR:** A building in which are provided facilities for the care, servicing, repair, or equipping of automobiles.

- (24) **GASOLINE SERVICE OR FILLING STATION:** Any area of land, including structures thereon, that is used for the retail sale of gasoline or oil fuels, or other automobile accessories, and incidental services including facilities for lubricating, hand washing and cleaning, or otherwise servicing automobiles, but not including painting, major repair or automatic washing or the sale of butane or propane fuels.
- (25) **HOME OCCUPATION:** Any occupation carried on solely by the inhabitants of a dwelling which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory buildings; provided that no trading in merchandise is carried on and in connection with which there is no display of merchandise or advertising sign other than one nonilluminated nameplate not more than two square feet in area attached to the main or accessory building, and no mechanical equipment is used except such as is customary for purely domestic or household purposes. A tea room/coffee house, restaurant, rest home, medical clinic, doctor's or dentist's office, child care center, tourist home, cabinet, metal or auto repair shop shall not be deemed a home occupation.
- (26) **HOTEL:** A building or group of buildings under one ownership containing six or more sleeping rooms occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation, but not including trailer court or camp, sanatorium, hospital, asylum, orphanage or building where persons are housed under restraint.
- (27) **KENNEL:** Any lot or premises on which are kept four (4) or more dogs, more than six (6) months of age.
- (28) **LOT:** Any plot of land occupied or intended to be occupied by one main building, or a group of main buildings, and accessory buildings and uses, including such open spaces as are required by this ordinance and other laws or ordinances, and having its principal frontage on a street.
- (29) **LOT, CORNER:** A lot which has a least two adjacent sides abutting for their full lengths on a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five degrees (135).
- (30) **LOT, DEPTH:** The mean horizontal distance between the front and rear lot lines.

- (31) **LOT, DOUBLE FRONTAGE:** A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
- (32) **LOT, INTERIOR:** A lot other than a corner lot.
- (33) **LOT, AREA:** The total area measured on a horizontal plane, included within lot lines.
- (34) **LOT, FRONTAGE:** That dimension of a lot or portion of a lot abutting on a street, excluding the side dimension of a corner lot.
- (35) **LOT LINES:** The lines bounding a lot.
- (36) **MANUFACTURED HOUSING/HUD-code manufactured home:** 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 (8) body feet or more in width or forty (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. These terms do not include a recreational vehicle as that term is defined by 24 CFR Section 3282.8 (g).
- (37) **MEDICAL FACILITIES:**
- (A) Convalescent, Rest, or Nursing Home: A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.
- (B) Dental Clinic or Medical Clinic: A Facility for the examination and treatment of ill and afflicted human out-patients provided that patients are not kept overnight except under emergency conditions.
- (C) Dental office or Doctors Office: Same as dental or medical clinic.
- (D) Hospital: An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.
- (E) Public Health Center: A facility primarily utilized by a health unit for providing public health services including related facilities such

as laboratories, clinics and administrative offices operated in connection therewith.

- (F) Sanatorium: An institution providing health facilities for in-patient medical treatment or treatment and recuperation making use of natural therapeutic agents.
- (38) Mobile Home: A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode is eight (8) body feet or more in width or forty (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. (Reference Ordinance 99-05, which prohibits mobile homes).
- (39) Parking Space: A permanently surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile.
- (40) Planned Development District: Planned associations of uses developed as integral land use units such as industrial parks or industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing including attached single family dwellings or any appropriate combination of uses which may be planned developed or operated or integral land use units either by a single owner or a combination of owners.
- (41) Rooming House: A building where lodging only is provided for compensation to three (3) or more, but not exceeding twenty (20) persons. A building which has accommodations for more than twenty persons shall be defined as a hotel under the terms of this ordinance.
- (42) Self-Service Laundry or Dry Cleaning Establishment: Any attended or unattended place, building or portion whereof, available to the general public for the purpose of washing, drying, extracting moisture from or dry cleaning wearing apparel, cloth, fabrics, and textiles of any kind by means of a mechanical appliance which is operated primarily by the customer.
- (43) Stable, Private: A stable with a capacity for not more than two (2) horses or mules.
- (44) Stable, Public: A stable, other than a private stable, with a capacity for more than two (2) horses or mules.

- (45) Standard Masonry Construction: Having at least 75% of the exterior walls of a building constructed of brick, stone or other masonry construction.
- (46) Story: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or there be no floor above it, then the space between the floor and the ceiling next above it.
- (47) Story, Half: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.
- (48) Street: Any public or private thoroughfare which affords the principal means of access to abutting property.
- (49) Street, Intersecting: Any street which joins another street at an angle, whether or not it crosses the other.
- (50) Structure: Anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground.
- (51) Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.
- (52) Tourist Court: An area containing one (1) or more buildings designed or intended to be used as temporary sleeping facilities of one or more transient families and intended primarily for automobile transients.
- (53) Tourist Home: A dwelling occupied as a permanent residence by an owner or rentor in which sleeping accommodations in not more than four (4) rooms are provided or offered for transient guests for compensation.
- (54) Trailer Court or Mobile Home Park: A parcel of land which has been designed or improved or intended to be used or rented for occupancy by one or more trailer houses or mobile homes.
- (55) Trailer or Mobile Home Space: A plot of ground within a trailer court designed for the accommodation of one mobile home.
- (56) Trailer Home or Mobile Home: A portable or mobile living unit used or designed for human occupancy on a permanent basis.

- (57) Trailer, Travel or Camping: A portable or mobile living unit used for temporary human occupancy away from the place of residence of the occupants, and not constituting the principal place of residence of the occupants, and containing less than 175 square feet of floor.
- (56) Trailer, Hauling: A vehicle to be pulled behind an automobile or truck which is designed for hauling animals, produce, goods or commodities, including boats.
- (58) Yard: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where otherwise specifically provided in this Ordinance that the building or structure may be located in a portion of a yard required for a main building. In measuring a yard for the purpose of determining the width of the side yard, the depth of front yard or the depth of a rear yard, the shortest horizontal distance between the lot line and the main building shall be used.
- (59) Yard Front: A yard located in front of the front elevation of a building and extending across a lot between the side yard lines and being the minimum horizontal distance between the front property line and the outside wall of the main building.
- (60) Yard, Rear: A yard extending across the rear of a lot measured between the lot lines and being the minimum horizontal distance between the rear lot line and the rear of the outside wall of the main building. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.
- (61) Yard, Side: A yard between the building and the side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the outside wall of the side of the main building.

ARTICLE 3

ESTABLISHMENT OF DISTRICTS

SECTION I

NUMBER OF DISTRICTS

1.1 For the purpose of this Ordinance the following districts are hereby established for the City:

Residential Districts

R-1 Single Family

R-2 Single Family

M – Multiple Family

Commercial Districts:

C -1 Neighborhood District

C-2 General Commercial District

C-3 Highway Commercial District

Industrial Districts:

I - Industrial District

SECTION 2

R-1 SINGLE - FAMILY RESIDENTIAL DISTRICT

2.1 GENERAL DESCRIPTION:

This is the most restrictive residential district. The principal use of land is for single-family dwellings and related recreational, religious and educational facilities normally required to provide an orderly and attractive residential area. These residential areas are not appropriate to residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different uses.

2.2 USES PERMITTED:

Property and buildings in an R-1, single family residential district, shall be used only for the following purposes:

- (a) Detached one-family dwelling
- (b) Churches, but not including missions or revival tents or arbors
- (c) Public school or school offering general educational courses the same as ordinarily given in public schools and having no rooms regularly used for housing and sleeping.
- (d) Public park and Playground
- (e) Library
- (f) Growing of Farm Products
- (g) Municipal Use
- (h) Telecommunication Facilities
- (i) Home Occupation
- (j) Transportation and Utility Easement, Alleys, and Rights-of-Way
- (k) Accessory buildings which are not a part of a main building, including one private garage, or accessory buildings which are part of a main building, including one private garage.

2.3 HEIGHT REGULATIONS – No building shall exceed two and one-half (2-1/2) stories or thirty-five (35') feet in height.

2.4 AREA REGULATIONS:

(a) Front Yard

- (1) The minimum depth of the front yard shall be thirty (30') feet.
- (2) If twenty-five percent (25%) or more of the lots on one side of the street between two intersecting streets are improved with buildings all of which have observed an average setback line of greater than thirty (30') feet, and no building varies more than six (6') feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulations shall not require a front yard of greater depth than forty (40') feet.
- (3) When a yard has double frontage, the front yard requirements shall be complied with on both streets.

(b) Side Yard

- (1) For dwellings located on interior lots there shall be a side yard on each side of the main building of not less than seven an one-half (7 1/2) feet for dwellings of one story, and of not less than ten (10') feet for dwellings of more than one story.
- (2) For unattached buildings of accessory use there shall be a side yard of not less than five (5') feet; provided, however, that unattached on-story buildings of accessory use shall not be required to set back more than three (3') feet from an interior side lot when all parts of the accessory building are located more than ninety (90') feet behind the front lot line.
- (3) For dwellings and accessory buildings located on corner lots there shall be a side yard set back from the intersecting street of not less than fifteen (15') in case such lot is back to back with another corner lot, and thirty (30') feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot.
- (4) Churches and main and accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than thirty (30') feet.

- (i) Uses customarily incident to any of the above uses when located upon the same lot and not involving the conduct of a business.
- (j) Fence – (a) A fence, hedge or enclosure wall provided (1) No solid fence or enclosure shall exceed a height of six (6') foot fence or enclosure shall extend closer to any front street than twenty (20') feet. (2) An ornamental fence may exceed six (6') feet in height but shall have a ratio of solid portion to open portion not in excess of one to four and shall not extend closer to any front street than 20 feet. (3) Any fence or enclosure extending closer than 20 feet to the front line street shall not exceed a height of four (4') feet, and any fence, hedge, or enclosure wall on a corner lot, and situated within fifteen (15') feet of the intersections of the two street lines, shall not exceed a height of three (3') feet.
- (k) A temporary bulletin board or sign, not exceeding twelve (12) square feet in area appertaining to the lease, hire or sale of a single building or premises, which board or sign shall be removed as soon as the premises are leased, hired or sold.
- (l) A temporary bulletin board or sign, not exceeding fifty (50) square feet in area appertaining to the lease, hire or sale of buildings or premises.
- (m) A church bulletin board or sign, not exceeding fifty (50) square feet in area, located on the same lot with the church building.
- (n) A sign not to exceed two (2) square feet in area and attached to a building no higher off the ground than six (6') feet, such sign to advertise only an accessory use allowed by this ordinance and being conducted on the same property upon which such sign is located.
- (o) Temporary building of the construction industry, which is incidental to the erection of buildings, permitted in this District and which shall be removed when construction work is completed.
- (p) Accessory uses, which shall include the following where the primary use is residential:

1.) Customary home occupation, such as beauty or barber shop, dressmaking, baby sitting, seamstress, tailoring, millinery, tutoring, when engaged in by members of the resident family and employing not more than one (1) person not a member of the resident family..

(c) REAR YARD

- (1) There shall be a rear yard for a main building of not less than twenty (20') feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in the rear yard of a main building.

(d) LOT WIDTH

- (1) For dwellings there shall be a minimum lot width of seventy five (75') feet at the front building line, and such lot shall abut on a street for a distance of not less than thirty-five (35') feet.

(e) INTENSITY OF USE

- (1) For each dwelling and building accessory thereto, there shall be a lot area of not less than ten thousand (10,000) square feet.
- (2) For churches and main accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this Section and the off-street parking areas required; provided, however, that the lot area for a church shall not be less than twenty-one thousand (21,000) square feet.

SECTION 3

R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT

3.1 GENERAL DESCRIPTION:

This residential district is slightly less restrictive than the R-1 District. The principal use of land is for single-family dwellings and related recreational, religious and educational facilities normally required to provide an orderly and attractive residential area. This residential areas are intended to be defined and protected from encroachment of uses which are not appropriate to residential environment. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and related facilities and through consideration of the proper functional relationship of the different uses.

3.2 USES PERMITTED:

- (a) Any use permitted in an R-1 Residential District.
- (b) Two-family dwellings.
- (c) Garage apartment.

3.3 HEIGHT REGULATIONS:

No building shall exceed two standard stories or thirty (30') feet in height except as provided in Article 4, Section 3.

3.4 AREA REGULATIONS:

(a) Front Yard:

- (1) The minimum depth of the front yard shall be twenty five (25') feet.
- (2) If twenty-five (25%) percent or more of the lots on one side of the street between two intersecting streets are improved with buildings, all of which have observed an average setback line of greater than twenty-five (25') feet, and no building varies more than six (6') feet from this average setback line, than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than forty (40') feet.
- (3) When a yard has double frontage the front yard requirements shall be complied with on both streets.

(b) Side Yard:

- (1) For dwellings located on interior lots there shall be a side yard on each side of the main building of not less than seven and one-half (7-1/2') feet for dwellings of one story, and of not less than ten (10') feet for dwellings of more than one story, except as hereinafter provided in Article 4, Section 2.
- (2) For unattached buildings of accessory use there shall be a side yard of not less than seven and one-half (7- 1/2') feet; provided, however, that unattached one story buildings of accessory use shall not be required to set back more than three feet from an interior side lot line when all parts of the accessory buildings are located more than ninety (90') feet behind the front lot line.
- (3) For dwellings and accessory buildings located on corner lots there shall be a side yard setback from the intersecting street of not less than fifteen (15') feet in case such lot is back to back with another corner lot, and twenty-five (25') feet in every other case. The interior side yard of a corner lot shall be the same as for dwellings and accessory buildings on an interior lot.
- (4) Churches and main and accessory buildings, other than dwellings, and buildings accessory to dwellings, shall set back from all exterior and interior side lot lines a distance of not less than twenty-five (25') feet.

(c) REAR YARD:

- (1) There shall be a rear yard for a main building of not less than twenty (20') feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller. Unattached buildings of accessory use may be located in the rear yard of a main building

(d) LOT WIDTH:

- (1) For dwellings there shall be a minimum lot width of sixty (60') feet at the front building line, and such lot shall abut on a street for a distance of not less than thirty-five (35') feet.0

(e) INTENSITY OF USE:

- (1) For each dwelling, and building accessory thereto, there shall be a lot area of not less than six thousand (6,000) square feet

- (2) For churches and main and accessory buildings, other than dwellings and buildings accessory to dwellings, the lot area shall be adequate to provide the yard areas required by this Section and the off-street parking areas required in Article 4, Section 9; provided, however, that the lot area for a church shall not be less than twenty-one thousand (21,000) square feet.

(f) COVERAGE:

- (1) main and accessory buildings shall not cover more than twenty-five (25%) percent of the lot area on interior lots, and thirty (30%) percent of the lot area on corner lots. Accessory buildings shall not cover more than twenty (20%) percent of the rear yard.

SECTION 4

M- MULTIPLE FAMILY RESIDENTIAL DISTRICT

4.1 GENERAL DESCRIPTION:

This is a residential district to provide for medium and high population density. The principal use of land may range from single-family to multiple-family and garden apartment uses. Certain uses which are more compatible functionally with intensive residential uses than with commercial uses are permitted. The recreational, religious and educational facilities normally required to provide an orderly and attractive residential area are permitted. Internal stability, attractiveness, order and efficiency are encouraged by providing for adequate light, air and open space for dwellings and relationship of each use permitted in the District.

4.2 USES PERMITTED:

- (a) Any use permitted in the R-2 Residential District.
- (b) Multiple family dwellings, attached single family dwellings and garden apartments.
- (c) Accessory buildings and uses customarily incidental to the above uses when located on the same lot.

4.3 AREA REGULATIONS:

All buildings shall be set back from street right-of-way lines or lot lines to comply with the following yard requirements:

(a) Front Yard

- (1) There shall be a front yard having a minimum depth of not less than twenty-five (25') feet except where cultural influence has established a lesser front yard, than the average existing front yard depth shall be observed.
- (2) Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets.

(b) Side Yard

- (1) For multiple-family and attached dwellings the side yard shall be ten (10') feet where no windows or other openings for light face the side yard. In all other cases the minimum depth shall be not less than twelve (12') feet plus one (1') foot for each fifteen (15') feet in length.

$$D = 12 + \frac{L}{15}$$

- (2) In all cases where the side yard is adjacent to a side street, the side yard shall not be less than (10') feet. Where the corner lot is a "Key Lot", the required front yard shall be provided on both streets.

c) Rear Yard

- (1) For multiple-family dwellings, same as side yard except where property backs up to residential zoned property the rear yard must have a depth of seventy-five (75') feet including parking areas. In addition, a brick stone, or acceptable masonry wall not less than six (6') feet high must be provided a long rear property line.

(d) The distance between buildings within an apartment development shall in no case be less than the sum of the required minimum depth of the yard as required in item (b) above.

- (1) One Windowless Wall – Where a window wall faces a window, less wall, the required distance between the two buildings shall be computed as if both walls contained windows.

(d) Lot Coverage

- (1) A lot on which there is erected or converted a multiple family dwelling shall contain a total lot area according to the following schedule:

Each Efficiency Unit	1,000 Sq. Ft.
Each One-Bedroom Unit	1,400 Sq. Ft.
Each Two-Bedroom Unit	2,300 Sq. Ft.
More than Two-Bedroom Unit	2,300 Sq. Ft. plus 200 Sq. Ft. For each bedroom over two.

- (2) Any room other than a living room, bathroom, dining room and kitchen shall be counted as a bedroom.

- (3) Livability Open Space – No less than forty (40%) percent of the total gross land area shall be used for people, planting, and visual appeal.

4.4 HEIGHT REGULATIONS:

No buildings shall exceed three and one-half stories or forty (40') feet in height.

SECTION 5

C-1 NEIGHBORHOOD DISTRICT

5.1 GENERAL DESCRIPTION:

This commercial district is for the conduct of retail trade and personal service enterprises to meet the regular needs and for the convenience of the people of adjacent residential areas. Because these shops and stores may be an integral part of the neighborhood closely associated with residential, religious, recreational and educational uses, more restrictive requirements for light, air, open space and off-street parking are made than are provided in other commercial districts.

5.2 USES PERMITTED:

Property and buildings in a C-1 Neighborhood District shall be used only for the following purposes:

- (a) Any use permitted in an A-Multiple Family District.
- (b) Retail stores and shops which do not exceed five (5,000) thousand square feet of gross floor area and which supply the regular and customary needs of the residents of the neighborhood and which are primarily for their convenience, as follows:

- Antique Shop
- Arts School, Gallery or Museum
- Artists Materials, Supply Studio
- Automobile Parking Lot
- Baby Shop
- Bakery Good Store
- Barber Shop
- Beauty Shop
- Book or Stationery Store
- Camera Shop
- Candy Store
- Cleaning, Pressing, Laundry Collection Agency
- Curio or Gift Shop
- Dress Shop
- Florist Shop, Greenhouse, Nursery
- Grocery Store or Supermarket including beer Sales
- Lodge Hall
- Medical Facility
- Telecommunications Service

Musical Instrument Sales
Newspaper or Magazine Sales
Office Business
Optometrists Sales and Service
Photographer Studio
Radio and Television Sales and Service
Self Service Laundry or Dry Cleaning
Shoe Repair Shop
Tailor Shop

- (c) Name Plate and sign relating to the use of the store and premises or to products sold on the premises.
- (d) Accessory buildings and uses customarily incidental to the above uses.
- (e) A building used for any of the above enumerated uses may not have more than forty (40%) percent of its floor area devoted to purposes incidental to the primary use. No material or goods offered for sale or stored in connection with the uses enumerated in (a) through (3) above shall be displayed or stored outside of a building.

5.3 AREA REGULATIONS:

The following requirements shall apply to all uses permitted in this District:

(a) **FRONT YARD:**

- (1) All buildings shall set back from the street right-of-way line to provide a front yard having not less than twenty-five (25') feet in depth.

(b) **SIDE YARD:**

- (1) On the side of a lot adjoining a dwelling district there shall be a side yard of not less than ten (10') feet. There shall be a side yard set back from an intersecting street of not less than twenty-five (25') feet.

(c) **REAR YARD:**

- (1) There shall be provided an alley, service court, rear yard, or combination thereof, of not less than thirty (30') feet.

5.4 HEIGHT REGULATIONS:

No building shall exceed three and one-half (3 ½) stories or forty (40') feet in height.

SECTION 6

C-2 GENERAL DISTRICT

6.1 GENERAL DESCRIPTION:

This commercial district is intended for the conduct of personal and business services and the general retail business of the community. Persons living in the community and in the surrounding trade territory require direct and frequent access. Traffic generated by the uses will be primarily passenger vehicles and only those trucks and commercial vehicles required for stocking and delivery of retail goods.

6.2 USES PERMITTED:

Property and buildings in a C-2 General Commercial District shall be used only for the following purposes:

- (a) Any use permitted in a C-1 Neighborhood District
- (b) Advertising signs or Structures
 - Ambulance Service, Office or Garage
 - Appliance Shop
 - Automobile Retail Gasoline Service Station
 - Bakery
 - Bank
 - Bath House
 - Beer Sales
 - Boat Sales
 - Billiard Hall
 - Bus Terminal
 - Catering Establishment
 - Cleaning Plant, Commercial Laundry or Dry Cleaning
 - Clothing or Apparel Store
 - Commercial School or Hall
 - Café
 - Dance Hall
 - Department Store
 - Drug Store or Fountain
 - Dry goods Store
 - Dairy Products
 - Delicatessen
 - Hotel
 - Feed and Fuel Store
 - Frozen Food Locker
 - Furniture Sales, Repair and Upholstery
 - Funeral Parlor or Mortuary

Golf Course, Miniature or Practice Range
Hardware Store
Heating, Ventilating or Plumbing Supplies, Sales and Service
Interior Decorating Store
Ice Storage Locker Plant, or Storage House for Food Jewelry or Notion Store
Key Stop
Laboratories, Testing and Experimental
Laundry
Leather Goods Shop
Liquor Store
Market
Museums
Night Club
Novelty Club
Novelty Shop
Nursery or Garden Supply Store
Outdoor Advertising Signs
Pawn Shop
Pet Shop
Pharmacy
Printing Plant
Recreation Center
Research Laboratories
Restaurant
Sewing Machine Sales or Instruction
Sign Painting Shop
Sporting Goods Sale
Hospital for Small Animals
Sporting Goods Store
Stock and Bond Broker
Storage Warehouse
Theatre
Tavern where Beer is Sold
Toy Store
Travel Store
Travel Trailer Park
Used Automobile Sales
Variety Store
Wholesale Distributing Center

- (c) Buildings, structures and uses accessory and customarily incidental to any of the above uses, provided that there shall be no manufacture, processing or compounding of products other than such as are customarily incidental and essential to retail establishments.

- (d) Any other store or shop for retail trade or for rendering personal, professional or business service which does not produce noise, odor, dust, vibration, blast or traffic than those enumerated above.

No article or material stored or offered for sale in connection with uses permitted under paragraphs (a) through (f) above shall be stored or displayed outside of a building unless it is so screened by permanent ornamental walls, fences or planting that it cannot be seen from adjoining streets or lots when viewed by a person standing on ground level; provided, however, that no screening in excess of seven (7') feet in height shall be required.

6.3 AREA REGULATIONS:

The area regulations for dwellings shall be the same as the requirements of the A-Multiple Family Residential District. The following requirements shall apply to all other uses permitted in this District:

(a) FRONT AND SIDE YARDS:

- (1) There are no specific front or side yard requirements for uses other than dwellings.

(b) REAR YARD:

- (1) There shall be provided an ally, service court, rear yard, or combination thereof, of not less than thirty (30') feet in width.

(c) AREA FOR OFF-STREET PARKING:

- (1) Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in this Ordinance.

6.4 HEIGHT REGULATIONS:

Dwellings and buildings accessory to dwellings and other buildings shall not exceed ninety (90') feet in height.

- (a) Buildings, structures and uses accessory and customarily incidental to any of the above uses, provided that there shall be no manufacture, processing or compounding of products other than such as are customarily incidental and essential to retail establishments.
- (b) Any other store or shop for retail trade or for rendering personal, professional or business service which does not produce more noise, odor, dust, vibration, blast or traffic than those enumerated above.

No article or material stored or offered for sale in connection with uses permitted under paragraphs (a) through (f) above shall be stored or displayed outside of a building unless it is so screened by permanent ornamental walls, fences or planting that it cannot be seen from adjoining streets or lots when viewed by a person standing on ground level; provided, however, that no screening in excess of seven (7') feet in height shall be required.

6.5 AREA REGULATIONS:

The area regulations for dwellings shall be the same as the requirements of the A-Multiple Family Residential District. The following requirements shall apply to all other uses permitted in this District:

(a) FRONT AND SIDE YARDS:

- (1) There are no specific front or side yard requirements for uses other than dwellings.

(b) REAR YARD

- (1) There shall be provided an alley, services court, rear yard, or combination thereof, of not less than thirty (30') feet in width.

(c) AREA FOR OFF-STREET PARKING:

- (1) Buildings shall be provided with a yard area adequate to meet off-street parking requirements set forth in Article 4, Section 10.

6.6 HEIGHT REGULATIONS:

Dwellings and buildings accessory to dwellings and other buildings shall not exceed ninety (90') feet in height except as hereinafter provided in Article 4, Section 3.

SECTION 7

C-3 HIGHWAY DISTRICT

7.1 GENERAL DESCRIPTION:

This commercial district is intended for the conduct of personal and business services and the general retail businesses of the community having space and land requirements not commonly available or compatible in general districts.

7.2 USES PERMITTED:

Property and buildings in a C-3 Highway District shall be used only for the following purposes:

- (a) Any use permitted in a C-2 General District.
- (b) Boat Sales and Service
- (c) Farm Implement and Machinery, New and Used, Sales
- (d) Metal and Wood Fencing, Ornamental Grillwork and Decorative Wrought Iron Work and Play Equipment Sales.
- (e) Mobile Home and Travel Trailer Sales
- (f) Monument Sales
- (g) New and Used Automobile Sales and Service
- (h) Prefabricated House Sales
- (i) Trailers for Hauling, Rental and Sales
- (j) Motels or Tourist Courts
- (k) Drive-In Theatre or Restaurant
- (l) Sexually Oriented Businesses

7.3 AREA REGULATIONS:

The area regulations for dwellings shall be the same as the requirements of the Multiple Family Residential District. The following requirements shall apply to all other uses permitted in this District:

- (a) **Front Yard:** All buildings shall be set back from the street right-of-way line to provide a front yard having not less than twenty-five (25') feet in depth.
- (b) **Side Yard:** On the side of a lot adjoining a dwelling district there shall be a side yard of not less than ten (10') feet. There shall be a side yard set back from an intersecting street of not less than twenty-five (25') feet.

(c) Rear Yard: There shall be provided an alley, service court, rear yard, or combination thereof of not less than thirty (30') feet.

7.4 HEIGHT REGULATIONS:

No building shall exceed three and one-half (3 1/2) stories or forty (40') feet in height.

7.5 SPECIAL PARKING AND CIRCULATION REQUIREMENTS:

All parking areas and drives shall be so designed so that adequate space is provided on the premises for the turning around of motor vehicles, such preventing the need for vehicles to back onto the street or highway.

SECTION 8

I - INDUSTRIAL DISTRICT

8.1 GENERAL DESCRIPTION:

This industrial district is intended primarily for the conduct of manufacturing, assembling and fabrication. These uses do not depend primarily on frequent personal visits of customers or clients, but usually require good accessibility to major rail, air or street transportation facilities.

8.2 USES PERMITTED:

Property and buildings in an I-District shall be used only for the following purposes:

- (a) Any use, except a residential use, permitted in a C-2 General District. No dwelling uses except sleeping facilities for caretakers and night watchmen employed on the premises shall be permitted.
- (b) Any of the following Uses:

- Bakery
- Bottling Works
- Book Bindery
- Candy Manufacturing
- Engraving Plant
- Electrical Equipment Assembly
- Electrical Equipment Assembly and Manufacture
- Food Products Processing and Packing
- Furniture Manufacturing
- Instrument and Meter Manufacturing
- Jewelry and Watch Manufacturing
- Laundry and Cleaning Establishment
- Leather Goods Fabrication
- Optical Goods Manufacturing
- Paper Products Manufacturing
- Shoe Manufacturing
- Sporting Good Manufacturing
- Wholesale or Warehousing Enterprise

Building Material Sales Yard and Lumber Yard, including the sale of rock, sand, gravel and the like as an incidental part of the main business.

Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.

Freighting or trucking yard or terminal, equipment storage yard, public utility service yard or electrical receiving on adjacent lots when viewed by a person standing on ground level immediately adjacent to the lot on which the use is located; provided, however, that screening shall not be required in excess of seven (7') feet in height.

(c) The Following uses when conducted within a completely enclosed building:

The manufacture, compounding, processing, packaging or treatment of such products as bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products.

The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, core, feathers, felt, fire, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stone, shell, textiles, tobacco, wood, yarn, and paint not employing a boiling process.

The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.

The manufacture and maintenance of electric and neon signs, commercial advertising structure, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and the like.

Manufacture of musical instruments, toys, novelties and rubber and metal stamps.

Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire rethreading or recapping, and battery manufacturing.

Machine Shop

Foundry casting lightweight nonferrous metal not causing noxious fumes or odors.

Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacturing of small parts only, such as coils, condensers, transformers, crystal holders, and the like.

- (c) Buildings, structures and uses accessory and customarily incidental to any of the above uses.

These uses permitted under this section shall be conducted in such a manner that no noxious odor, fumes or dust will be emitted beyond the property line of the lot on which the use is located.

8.3 AREA REGULATIONS:

(a) FRONT AND SIDE YARD:

- (1) There are no specific front or side yard requirements for uses in this district: provided, however, that a building shall set back a distance of not less than twenty-five (25') feet from the side lot line that adjoins a dwelling district.

(b) REAR YARD:

- (1) Where a building is to be serviced from the rear there shall be provided an alley, service court, rear yard or combination thereof of not less than thirty (30') feet in width or of adequate area and width to provide for maneuver of service vehicles, whichever is the greater. In all other cases no rear yard is required, provided, however, that a building shall set back a distance of not less than twenty-five (25') feet from the rear lot line that adjoins a dwelling district.

(c) REAR AREA:

- (1) Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in this Ordinance.

8.4 HEIGHT REGULATIONS:

No building shall exceed ninety (90) feet in height.

SECTION 9

PLANNED DEVELOPMENT DISTRICT

9.1 GENERAL DESCRIPTION:

The Planned Development District is a district which accommodates planned associations of uses developed as integral land use units such as industrial districts, office, commercial or service centers, shopping centers, residential developments of multiple or mixed housing including attached single-family dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners.

9.2 CREATION:

The City Council, after public hearing and proper notice to all affected property owners and after recommendation by the City Planning and Zoning Board, may authorize the creation of a Planned Development District on sites of five (5) acres or more to accommodate various types of developments and conditions of development for any use or combination of uses permitted by this ordinance. The uses to be permitted in any specific Planned Development District shall be enumerated in the ordinance establishing such district and shown on the approved plan for development which becomes part of said ordinance.

9.3 DESIGN STANDARDS:

In approving the development plan and the ordinance establishing the Planned Development District, the City Council shall, after recommendation by the City Planning and Zoning Board, specify such maximum height, floor-area ratio, density and minimum off-street parking and loading standards within the limits of those specified in the districts listed for the specific uses involved as is appropriate for the development. The City Council, shall after receiving the recommendation of the City Planning and Zoning Board, establish the standards for yards, signs, building spacing, site coverage, access, screening or landscaping, building area, open space pedestrian ways, public or private streets and alleys to be observed in a Planned Development District and such standards shall be specified in the ordinance establishing the district.

9.4 DEVELOPMENT SCHEDULE:

An application for a Planned Development District shall, if the applicant desire, or the City Planning and Zoning Board or City Council requires, be accompanied by a development schedule indicating the appropriate date on which construction

is expected to begin and the rate of anticipated development to completion. The development schedule, if adopted and approved by the City Council, shall become part of the development plan and shall be adhered to by the owner, developer and his successors in interest.

9.5 ANNUAL DEVELOPMENT REPORT:

Annually, where a development schedule has been required, the City Administrator, or his designate, shall report to the City Planning and Zoning Board the actual development accomplished in the various Planned Development Districts as compared with the development schedule.

9.6 FAILURE TO MEET DEVELOPMENT SCHEDULE:

The City Planning and Zoning Board may, if in its opinion the owner or owners of property are failing or have failed to meet the approved schedule, initiate proceedings to amend the Zoning District Map or the Planned Development District by removing all or part of the Planned Development District from zoning district. Upon the recommendation of the City Planning and Zoning Board and for good cause shown by the owner and developer, the City Council may also extend the development schedule or adopt such new development schedule as may be indicated by the facts and conditions of the case.

9.7 DEVELOPMENT PLAN REQUIRED:

An application for a Planned Development District shall include and be accompanied by a development plan which shall become a part of the amending ordinance and shall be referenced on the Zoning District Map. Changes in the development plan shall be considered the same as changes in the Zoning District Map and shall be processed as required, except that changes of detail which do not alter the basic relationship of the proposed development to adjacent property and which do not alter the uses permitted or increase the density, floor-area ratio, height or coverage of the site, or which do not decrease the off-street parking ration, or reduce the yards provided at the boundary of the site as indicated on the approved development plan may be authorized by the City Planning and Zoning Board. Any applicant may appeal the decision of the City Planning and Zoning Board to the City Council for review and decision as to whether an amendment to the Planned Development District ordinance shall be required. All uses shown on the development plan shall be mutually exclusive.

9.8 THE DEVELOPMENT PLAN SHALL INCLUDE:

- (a) A scale drawing showing any proposed public or private streets and alleys; building sites or building lots; any areas proposed for dedication or reserved as parks, parkways, playgrounds,

utility and garbage easements, school sites, street widening, street changes; the points of ingress and egress from existing public streets on an accurate survey of the boundary of tract and topography with a contour interval of not less than five (5') feet, or spot grades where the relief is limited.

- (b) Where multiple types of land uses are proposed, a land use plan delineating the specific areas to be devoted to various uses shall be required.
- (c) Where building complexes are proposed, a site plan showing the location of each building and the minimum distance between buildings, and between buildings and the property line, street line and/or alley line shall be submitted. For buildings more than one (1) story in height, except single-family and two-family residences, elevations and/or perspective drawings may be required in order that the relationship of the buildings to adjacent property, open spaces and to other features of the development plan may be determined. Such drawings need only indicate the height, number of floors and exposures for access, light and air.
- (d) A plan indicating the arrangement and provision of off-street parking and off-street loading where required. Such a plan may be presented as a ratio of off-street parking and off-street loading area to building area when accompanied by a typical example indicating the feasibility of the arrangement proposed and when the areas where the example would be applied are dimensioned on the drawing of the entire site. Any special traffic regulation facilities proposed or required to assure the safe function of the circulation plan shall also be shown
- (e) A designation of the maximum buildings coverage of the site shall be indicated upon the site plan.
- (f) Screening and landscaping plan shall be required where such treatment is essential to the proper arrangement of the development in relation to adjacent property. Such plan shall, when required, include screening walls, ornamental planting, playgrounds, wooded areas to be retained, lawns and gardens if such are determined to be necessary by the City Council.
- (g) Any or all of the required features may be incorporated on a single drawing if such drawing is clear and capable of evaluation by the City Administrator or his designee.

9-9 DEVELOPMENT CONDITIONS:

Every Planned Development District approved under the provisions of this Ordinance shall be considered as an amendment to the Planning and Zoning Ordinance as applicable to the property involved. In carrying out the development of a Planned Development District, the development conditions and the development schedule, if required, shall be complied with such conditions as are specified for the development of a Planned Development District shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be construed as conditions precedent to the granting of a certificate of occupancy and compliance as required in this ordinance.

9-10 AREA REQUIREMENTS:

In Planned Development Districts, with residential uses, one-family attached dwelling defined as a dwelling unit on a separately platted lot which is joined to another dwelling unit on one or more sides by a party wall or abutting separate wall, served by separate utilities and not occupied by more than one family shall be permitted. The requirements prescribed in the community development may be adopted to residential developments planned as Planned Developments with variable housing wherein the types of dwelling structure may vary from those permitted in the district in which the development is proposed, as attached single-family or apartments in a single-family area.

One-family attached dwellings need not provide a side yard except that a minimum required side yard adjacent to a side street of ten (10') feet shall be provided. A minimum required side yard of five (5') feet shall be provided at the end of each one-family attached dwelling complex so that the ends of any two adjacent building complexes shall be at least ten (10') feet apart. The required side yards for complexes on one-family attached dwellings may be designated upon a plat approved by The City Planning and Zoning Board. A complex of attached one-family dwellings shall have a minimum length of three (3) dwelling units and shall not exceed three hundred (300') feet in length or width of a cluster module.

A single-family attached dwelling shall be located on a platted lot with a minimum width of twenty-five (25') feet, a minimum depth of seventy-five (75') feet and contain a minimum area of three thousand (3,000) square feet. Two (2) off-street parking spaces and two (2) car garage or carport shall be provided for each living unit. A front setback of twenty (20') feet shall be provided on the side of the structure facing a street, drive or common open area.

In Planned Development Districts with residential uses may also be approved for special apartment designs such as a fourplex, a structure with four (4) living units, or a sixplex, a structure with six (6) living units, all of which must comply with the minimum requirements of the A-Multiple-Family District.

SECTION 10

SPECIAL USE PERMITS

10-1 A special permit for any of the following uses in any USE DISTRICT may be granted and may contain such requirements, conditions and safeguards as are needed to protect adjacent property and in any case a site plan may be required by the Planning and Zoning Board which may be made a part of the approval granting such special use permit.

- a. College, University or Private Boarding School.
- b. Library, Museum or Art Gallery.
- c. Golf Course, Driving Range or Putting Course.
- d. Radio, Microwave Relay Tower, or Television Tower
- e. Private above ground Water Storage Tank
- f. Gas or Petroleum Drilling or Storage
- g. Rock Quarries; sand, gravel or earth excavation for off-site use.
- h. Airports or Landing Fields for Public or Private Use. A special permit will not become effective until the site is approved by the Civil Aeronautics Administration. When located in the R-1, R-2, R-3, D or A residence Districts, the site shall contain not less than twenty (20) acres.
- i. Hospitals intended for the care of insane, liquor or narcotics patients. When located in the R-1, R-2, R-3, D or A Residence Districts, the site shall contain not less than twenty (20) acres.
- j. Hospital other than one intended for the care of insane, liquor or narcotics patients. When located in the R-1, R-2, R-3, D or A Residence Districts the site shall contain not less than five (5) acres.
- k. Mobile Home Park or Single Mobile Home or Manufactured Home.
- l. Dry Boat Storage.
- m. Dog Kennels and Veterinary Hospitals.

- n. Greenhouses and nurseries.
- o. Private Club, community or civic club.
- p. Day nursery or child care center.
- q. Kindergarten
- r. Home beauty shop
- s. Institutions of a religious, education, recreation or philanthropic nature which are not listed in other sections of this report.
- t. Sororities, fraternities and lodges
- u. Medical facility
- v. An off-street parking lot
- w. Bait Sales
- x. Electric transmission station
- y. Roller skating rink
- z. Temporary structures for religious or public gatherings.
- aa. Carnivals or amusements parks
- bb. Zoo
- cc. Temporary produce stand
- dd. Motor raceways
- ee. Feed Lot
- ff. Athletic fields or stadiums
- gg. Christmas tree sales
- hh. Fireworks sales

- ii. Sewage treating plant
- jj. Utility installation, public or private, not listed in other sections of this ordinance.
- kk. Animal pound
- ll. Commercial stable
- mm. Home tropical fish sales
- nn. Liquor store or store selling beer.

10-2 A special permit may be granted for the following uses in the I- Industrial District only:

- (a) Cement, lime or gypsum manufacture
- (b) Natural gas productions and distribution
- (c) Petroleum production and refining
- (d) Wholesale or bulk storage of gasoline, propane or butane, or other petroleum products.
- (e) Disposal plants of all types including trash and garbage, sewage treatment, including lagoons and compost plants.
- (f) Salvage yards for automobiles, building materials, scrap metal, junk, or for any other kind of salvage; provided, however, that all salvage operations shall be so screened by ornamental walls, fences, or evergreen planting that it cannot be seen by a person standing at ground level at any place immediately adjacent to the lot on which the salvage operation is located.

10-3 **SITE PLAN**

Whenever the City Planning and Zoning Board shall require a site plan for a special use permit, such site plan shall show existing improvements on the land and proposed development of the property and shall give the following information:

- (a) Date, scale, north point, title, name or owner, and name of person preparing plan;
- (b) Location of existing boundary lines and dimensions of the tract;
- (c) Centerline of existing water courses, drainage features, and location and size

of existing and proposed streets and alleys:

- (d) Location and size to the nearest one-half (1/2) foot of all proposed buildings and land improvements;
- (e) Clear designation of areas reserved for off-street parking and for off-street loading; the location and size of points of ingress and egress; and the ratio of parking space to floor space.

10-4 MOBILE HOMES AND HUD-CODE MANUFACTURED HOMES

- (a) If a mobile home/trailer is to be moved into the City it must be granted its own Special Use Permit, whether for residential or commercial use.
- (b) All mobile homes and HUD-code manufactured homes located within the City shall have skirting or underpinning that extends from the bottom of the outside walls, vertically to, or below the ground level on all sides, as a factor of safety, to preclude the entrance of children, animals, or the accumulation of trash in the area between the ground surface and the floor, sub-floor, or chassis of the home. All draw bars shall be decorated to be compatible with the main structure and skirting, or they shall be removed. This shall be done within sixty (60) calendar days of the installation of the home on the lot. An additional sixty (60) days will be granted by submitting a letter before the expiration of the initial sixty (60) day period to the City of Marfa with an explanation for the delay, the date the skirting is to be in place, dated and signed by the home owner. Further time extensions may be granted or the Special Use Permit revoked by the Board.

10-5 NOTICE TO ADJACENT PROPERTY OWNERS

Before the 10th day of a public hearing by the Planning and Zoning Board regarding a proposed Special Use Permit, written notice of the hearing shall be sent to each owner, as indicated by the most recently approved City property tax roll, of real property within 300 feet of the property on which the Special Use Permit is proposed. The notice may be served by its deposit in the City, properly addressed with first-class postage paid, in the United States Mail. The adjacent property owners will also be sent a form on which to indicate their approval or disapproval of the proposed Special Use Permit. The form should be returned not later than 5:00 on the day of the hearing, by mail, by fax, or in person. A non response by a property owner shall be considered as an approval.

ARTICLE 4

GENERAL PROVISIONS APPLYING TO ALL
OR SEVERAL DISTRICTS

SECTION 1

APPLICATION OF REGULATION OF THE USES OF
A MORE RESTRICTED DISTRICT

- 1.1 Whenever the specific district regulations pertaining to one district permit the uses of a more restricted district, such uses shall be subject to the conditions as set forth in the regulations of the more restricted district, unless otherwise specified.
- 1.2 It is intended that these regulations be interpreted as not permitting a dwelling unit to be located on the same lot with or within a structure used or intended to be used primarily for non-residential purposes.

SECTION 2

OPEN SPACE

- 2-1 The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulation set forth in Article 3 herein.
 - a. An open space or lot area required for an existing building or structure shall not be counted as open space for any other building or structure.
 - b. Open eaves, cornices, window sills, and belt courses may project into any required yard a distance not to exceed two (2) feet. Open uncovered porches or open fire escapes may project into a front or rear yard a distance not to exceed five (5') feet. Fences, walls, and hedges in residential districts may be erected in any required yard, or along the edge of any yard, providing that no fence, wall or hedge located in

front of the front building line shall exceed Three (3') feet in height, and no other wall or fence shall exceed seven (7') feet in height.

- c. Where the dedicated street right-of-way is less than fifty (50') feet, the front yard depth shall be determined by measuring fifty feet back from the center line of the street easement.
- d. No dwelling shall be erected on a lot which does not abut on at least one street, at least fifty (50') feet in width, for at least thirty-five (35') feet. A street shall form the district and primary means of ingress and egress. A garage apartment may be built to the rear of a main dwelling if there is compliance with all other provisions of this Ordinance. Accessory buildings which are not a part of the main building may be built in the rear yard but shall not cover more than thirty percent (30%) of the rear yard.
- e. No minimum lot sizes and open spaces are prescribed for commercial and industrial uses. It is the intent of this Ordinance that lots of sufficient size be used by any business or industry to provide adequate parking and unloading and loading space required for operation of the enterprise.
- f. On any corner lot on which a front and side yard is required, no wall, fence, sign, structure or any plant growth which obstructs sight lines at elevations between two feet six inches (2'6") and six (6') feet above any portion of the crown of the adjacent roadway shall be maintained in a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of twenty-five (25') feet along the front and side lot lines and connecting the points so established to form a right triangle on the area of the lot adjacent to the street intersection.
- g. An attached or detached private garage which faces on a street shall not be located closer than twenty-five (25') feet to the street easement line.
- h. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.
- i. Whenever one or more residential, institutional, commercial or industrial buildings are proposed to be located in a cluster or grouping which has a different arrangement, orientation, or other site planning variation from that of other buildings, structures or uses in the area or an adjacent properties, the architectural design, location, orientation, service and parking areas of such buildings shall be planned so as not

to adversely affect the use of adjacent or other properties in the area, as determined by the planning commission.

SECTION 3

HEIGHT

- 3.1 The following requirements are intended to provide exceptions or qualify and supplement, as the case may be, the specific district regulations set forth in Article 3 herein.
- a. In measuring heights, a habitable basement or attic shall be counted as a story. A story in a sloping roof, the areas of which story at a height of four (4') feet above the floor does not exceed two thirds (2/3) of the floor area of the story immediately below it and which does not contain an independent apartment, shall be counted as a half story.
 - b. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.
 - c. Churches, schools, hospitals, sanatoriums, and other public and semi-public buildings may exceed the height limitation of the District of the minimum depth of rear yards and the minimum width of the side yards required in the District are increased one (1') foot for each two (2') feet by which the height of such public or semi-public structure exceeds the prescribed height limit.

SECTION 4

STORAGE AND PARKING OF TRAILERS
AND COMMERCIAL VEHICLES

- 4.1 Commercial vehicles and trailers of all types, including travel, camping and hauling and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any Residential District except in accordance with the following provisions:
- a. Not more than one commercial vehicle, which does not exceed one and one-half (1-1/2) tons rated capacity, per family living on the premises, shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline, or other liquefied petroleum products be permitted.
 - b. Not more than one camping or travel trailer or hauling trailer per family living on the premises shall be permitted, and said trailer shall not exceed twenty-four (24') feet in length, or eight (8') feet in width; and further provided that said trailer shall not be parked or stored for more than forty-eight (48) hours unless it is located behind the front yard building line. A camping or travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area within the incorporated limits except in a trailer court authorized under the ordinances of the City.
 - c. A mobile home shall be parked or stored only in a trailer court which is in conformity with the ordinances of the City.
 - d. Commercial vehicles exceeding one and one-half (1-1/2) tons rated capacity shall not be parked on residential streets except for delivery or for emergency.

ARTICLE 5

NON-CONFORMING USES

Any lawful use of property existing on the date of the adoption of this ordinance which does not conform to the regulations prescribed herein shall be deemed a non-conforming use and may be continued subject to such regulations as to the maintenance of premises and conditions of operations as may, in the judgment of the Planning and Zoning Board, be reasonably required for the protection of adjacent property. A non-conforming use may be extended through an existing building provided no structural alterations, except those required by law or ordinance shall be made therein, and if no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. A non-conforming use, if changed to a conforming use, may not hereafter be changed back to any non-conforming use. If a non-conforming use shall be deemed to have been abandoned and any future use thereof shall conform to the terms of this ordinance.

SECTION 5
OFF-STREET AUTOMOBILE AND VEHICLE PARKING
AND LOADING

5.1 GENERAL INTENT AND APPLICATION:

It is the intent of these requirements that adequate parking and loading facilities be provided off the street easement for each use of land within the City. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in all Districts.

5.2 REQUIRED OPEN SPACE:

Off-street parking or loading space shall be a part of the required open space associated with the permitted use and shall not be reduced or encroached upon in any manner.

- a. The area required for off-street parking shall be in addition to the yard area herein required; except that the front yard required in a C-1 Neighborhood District or I Industrial District may be used for uncovered parking area; and further provided that the front yard required in a Residential District may be used for the uncovered parking area for six (6) or less vehicles associated with a residential use when the area is surfaced with a sealed surface pavement adequate to prevent the occurrence of mud and dust with continued use, and may be used for uncovered parking area for more than six (6) vehicles in accordance with the provisions of Article 4, Sub-section 9.8, infra.

5.3 LOCATION:

The off-street parking lot shall be located within two hundred (200) feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley.

5.4 JOINT PARKING FACILITIES:

Whenever two or more uses are located together in a common building, shopping center or other integrated building complex, the parking requirements may be complied with by providing a permanent common parking facility, cooperatively established and operated, which contains the requisite number of spaces for each use. The total number of spaces provided shall not be less than the sum of the individual requirements.

5.5 SIZE OF OFF-STREET PARKING SPACE:

The size of a parking space for one vehicle shall consist of a rectangular area having dimensions of not less than eight (8') feet by twenty (20') feet plus adequate area for ingress and egress.

5.6 AMOUNT OF OFF-STREET PARKING AND LOADING REQUIRED:

Off-street parking and loading facilities shall be provided in all Districts in accordance with the following schedule:

- (1) Dwelling, Single-family or Duplex: Two (2) parking spaces for each separate dwelling unit within the structure.

- (2) Dwelling, Multiple-family: Two (2) parking spaces shall be provided upon the lot for each one bedroom dwelling unit and two and one-half (2 ½) parking spaces for each two (2) bedroom unit. No parking shall be permitted in the required front yard. No parking shall be allowed within four (4') feet of any building nor closer than two (2') feet to the side yard lines. No parking space shall be used for storage of any truck, truck-trailer, or van, except panel and pickup trucks not exceeding one (1) ton capacity and boat and travel trailers may be parked in a required parking space when the operator or owner of such vehicle resides upon the premises. All parking spaces shall be so arranged as to permit vehicles to be parked and removed without moving one car to facilitate the movement of the other. All parking areas shall be paved according to the City's standard paving specifications.

Travel trailers as defined in this ordinance shall not exceed eight (8') feet in width or twenty (20') feet in length.

All boats and travel trailer parking shall be limited to a designated area (s) within the required parking area(s).

- (3) Boarding or rooming house or hotel: One (1) parking space for each two (2) guests provided overnight accommodations
- (4) Hospitals: One (1) space for each four patient beds, exclusive of bassinets, plus one (1) space for each staff or visiting doctor, plus one (1) space for each three (3) employees including nurses, plus adequate area for the parking of emergency vehicles.
- (5) Medical or Dental Clinics or Offices: Six (6) spaces per doctor plus one (1) space for each two (2) employees.
- (6) Sanatoriums, Convalescent or Nursing Homes: One (1) space for each six (6) patient beds plus one (1) space for each staff or visiting doctor plus one (1) space for each four (4) seats, based on maximum seating capacity.
- (7) Community Center, Theater, Auditorium, and Church Sanctuary: One (1) parking space for each four (4) seats, based on maximum seating capacity.
- (8) Convention Hall, Lodge, Club, Library, Museum, Place of Amusement or Recreation: One (1) parking space for each fifty (50) square feet of floor area used for assembly or recreation in the building.
- (9) Office building: One (1) parking space for each three hundred (300) square feet of gross floor area in the building, exclusive of the area used for storage, utilities and building service.
- (10) Commercial Establishments not otherwise classified: One (1) parking space for each one hundred fifty (150) square feet of floor space used for retail trade in the building and including all areas used by the public.
- (11) Industrial Establishments: Adequate area to park all employees and customers vehicles at all times and adequate space for loading, unloading and storing all vehicles used incidental to or as a part of the primary operation of the establishment.

For all uses not covered in 1 through 11 above the Planning Commission shall make a determination of the parking demand to be created by the proposed use, and the amount of parking thus determined shall be the off-street parking requirement for the permitted use.

5.7 PAVED SURFACE REQUIRED:

All parking spaces shall be paved with a sealed surface pavement and maintained in a manner that no dust will result from continued use.

5.8 OFF-STREET PARKING LOTS IN RESIDENTIAL DISTRICTS:

Whenever off-street parking lots for more than six (6) vehicles are to be located within or adjacent to a Residential District, the following provisions shall apply:

- (1) All sides of the lot within or abutting the Residential District shall be enclosed with an opaque ornamental fence, wall or dense evergreen hedge having a height of not less than five (5) feet nor more than six (6') feet. Such fence, wall, or hedge shall be maintained in good condition.
- (2) No parking shall be permitted within a front yard setback line established fifteen (15') feet back of the property line of interior and corner lots wherever the parking lot is located in a residential district or immediately abuts the front yard of a residential unit. In all other cases no setback shall be required.
- (3) All yards shall be landscaped with grass and shrubs and maintained in good condition the year round.
- (4) Driveways used for ingress and egress shall be confined to and shall not exceed twenty-five (25') feet in width exclusive of curb returns.
- (5) All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use.
- (6) Whenever lighting is provided, the intensity of light and arrangement of reflectors shall be such as not to interfere with residential district uses.
- (7) No sign of any kind shall be erected except information signs used to guide traffic and to state the condition and terms of the use of the lots. Only non-intermittent white lighting of signs shall be permitted.

SECTION 6

LOT AREA REQUIREMENTS FOR SEPTIC TANKS

Whenever connection with the sanitary sewer system will require unreasonable expenditure and septic tanks are to be installed for residential lots the following requirements shall be met:

(1) Residential lots shall have an area of at least twelve thousand (12,000) square feet, shall be of at least eight (80') feet wide and shall be at least 120 feet deep.

(2) Where, as the result of necessary percolation tests as required by the City, the City's Engineer deems the minimum lot area insufficient, the City shall require additional lot area sufficient to accommodate the sanitary facilities deemed necessary by the City's Engineer.

6-1

ARTICLE 6

PERMITS

SECTION 1: It shall be unlawful for any person, firm or corporation to commence the construction, enlargement or structural alteration of any building in the City, or using or occupying the same without first applying for and securing a building permit. Application shall be made on forms furnished by the City.

ARTICLE 7

SPECIAL PARKING AND AREA REGULATIONS AND EXCEPTIONS

SECTION 1. Vision Clearance:

On any corner lot on which front and side yards are required, no wall, fence, structure, sign, tree, shrub, or hedge may be maintained as to cause danger to traffic by obstructing the view and when topography prevents a clear view, this bank shall be removed.

SECTION 2. Building Lines:

- (a) The front building line of the main dwelling hereafter constructed in residence districts, or altered in such manner as to change the position of such front building line, shall be located the distance required from the front building line, shall be located the distance required from the front lot line as may be required in the residential district in which such dwellings are located.
- (b) Open porches of dwellings may extend into the front yard a distance of ten (10') feet from the main line of the building. Cornices and eaves of the main building may project not more than three (3') feet into the front yard.

SECTION 3. Lot Area:

On any lot separately owned on the date this ordinance becomes effective, a single family dwelling may be erected even though such lot has less area than required by these regulations.

SECTION 4. Location of Dwellings and Buildings:

Only one main building for single family, tow family, or multiple family use, with permitted accessory buildings, may be located upon a lot or officially approved place, other than alley, which means of access shall have a minimum width of thirty (30') feet. Where a lot or tract of land is used for local retail or industrial purposes, more than one main building may be located upon the lot but only when such buildings conform to all the open space, parking and density requirements applicable to the uses and district, and when all such main buildings face upon a street or officially approved place, other than an alley. Whenever two or more main buildings, or portions thereof, are placed upon a single lot or tract and such development is approved by the City Planning Commission so as to comply with normal requirements for platting.

ARTICLE 8

PLANNING AND ZONING BOARD

(1) There is hereby created a Planning and Zoning Board consisting of five (5) members, and (4) four, alternates, each to be appointed by a majority of the City Council, for a term of two years, with staggered terms of three (3) members and two (2) alternates in odd-numbered years and two (2) members and two (2) alternates in even-numbered years, and removable for cause, such as not attending three (3) consecutive meetings, by the appointing authority. (As per Council Amendment to Ordinance 480 on 08-14-01: Transition Phase: Upon passage of this Ordinance Amendment, three (3) members positions and two (2) alternates positions [were] appointed; the other two (2) current members positions [did] expire and would be filled along with the other two (2) alternate positions in twelve months (August, 2002). Vacancies shall be filled by appointment of the original appointing authority of a suitable person to serve out the unexpired term of any member or alternate whose place on the Board has become vacant for any reason.

The Board is hereby vested with power and authority, in appropriate cases and subject to appropriate conditions and safeguards to make such exceptions to the terms of this ordinance in harmony with its general purpose and intent and in accordance with general or special rules therein contained for the purpose of rendering full justice and equity to the general public. The Board may adopt rules to govern its proceedings provided, however, that such rules are not inconsistent with this ordinance. Meetings of the Board shall be held at the call of the chairman, who may administer oath and be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicate such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(2) Appeals to the Board can be taken by any person aggrieved or by any officer, department, board or department of the municipality affected by any decision of the administrative office. Such appeals shall be taken within fifteen (15) days' time after the decision has been rendered by the administrative office, 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 all papers constituting the record upon which the action appealed was taken. An action appealed from shall stay all proceedings upon the action appealed, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts, stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order which may be

granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(3) The Board shall have the following powers:

To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance. To hear and decide special exceptions to the terms of the Ordinance upon which the Board is required to pass under this Ordinance.

To authorize upon appeal in special cases, such variances from the terms of the Ordinance as will not be contrary to the public from the terms of the Ordinance as will not be contrary to the public interest, where, owing to special conditions, the literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of this Ordinance shall be observed and substantial justice done.

In exercising its powers, the Board may, in conformity with the provisions of the Civil Statutes of Texas, revise or reform, wholly or partly, or may modify the order, requirements, decision or determination as ought to be made and shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of a majority of the Board shall be necessary to revise any order, requirements, decision or determination of any such administrative official, or to decide in favor of the application on any matter upon which it is required to pass under this Ordinance or to affect any variance in said Ordinance.

- (4) Any person or persons, jointly or severally, aggrieved by any decision of the Board or any taxpayer or any officer, department, or Board of Municipality 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 (10) days after the filing of the decision in the office of the Board and not thereafter.
- (5) Any appeal to the Board from an adverse ruling by the administrative official shall be accompanied by \$25.00 in cash to be paid by the person making the appeal to cover the cost of such appeal.

Article 8

PLANNING AND ZONING COMMISSION

I. Planning and Creation:

The Planning and Zoning Commission is hereby created within the City of Marfa, Texas. In accordance with the Texas Local Government Code, its purpose is to fulfill those Planning and Zoning responsibilities delegated to it by the City Council. Hereafter referred to as the "COMMISSION".

II. Powers and Duties:

The Planning and Zoning Commission shall exercise the powers and duties as prescribed by Local Government Code, Title 7, and Chapter 211.

- A. Establish a planning process whereby the Commission shall make reasonable efforts to obtain citizen input in the process of identifying community needs, opportunities and goals.
- B. To have plans and maps prepared by City staff or other professionals of the whole or any portion of the City and of land outside the City located within the extra territorial jurisdiction for the City, which, in the opinion of the City Planning and Zoning Commission bears a relation to the planning of the of the City and to make changes in, additions to, and extensions of such plans or maps when it deems advisable.
- C. The Planning and Zoning Commission shall be an advisory body to the City Council, and its members shall not be considered to be officers or employees of the City of Mara. The Commission shall make recommendations regarding amendments to the Comprehensive Plan, change of zoning, and zoning to be given to newly annexed areas. The Commission shall conduct an annual review of the City's Comprehensive Plan and shall be prepared to make recommendations to the City Council as deemed necessary to keep the City's Comprehensive Plan current with changing conditions and trends and with the needs of the City.
- D. To approve or disapprove land subdivision plats and to vacate plats or replats in accordance with other applicable ordinances of the City of Marfa and the laws of the State of Texas.
- E. To hold public hearings and make recommendations to the City Council relating to creation, amendment and implementation of zoning regulations,

use classifications and districts, all as provided in the laws of the State of Texas and the ordinances of the City of Marfa.

- F. To perform other duties and responsibilities as may be referred to the Commission by the City Council.

III. MEMBERSHIP AND REQUIREMENTS:

- A. The Commission shall be composed of (5) five members, each of whom is a resident citizen, taxpayer and qualified voter in the City of Marfa.
- B. The members of the Commission shall be appointed by the City Council to serve terms of (2) two years or until a successor is appointed. Terms will be staggered. Members of the Commission may be appointed to succeed themselves.
- C. The term of each member shall terminate on (Month _____ and date _____ of the year in which the term expires, or when his/her successor has been qualified for office.
- D. Vacancies shall be filled for the unexpired term in the same manner as provided for original appointments.
- E. Members of the Planning and Zoning Commission may be removed from office at any time for any reason by a simple majority vote of the City Council, after the member commissioner has been afforded the opportunity of a public hearing.
- F. Failure for a Commission member to attend (3) three consecutive scheduled meetings shall be deemed cause for removal from office, unless such absences were due to unusual circumstances such as illness of the member or someone within the members immediate family. Excuses will be granted or denied by the City Council.
- G. Members of the Commission shall serve without compensation.

IV. ORGANIZATION:

The Commission shall hold its organization meeting no less than 30 days from the beginning of the new terms of office each year (Ref. III@above). At this meeting the membership of the Commission shall elect a Chairman, Vice Chairman and Secretary. Each officer shall serve for a period of one (1) year. In the absence of the Chairman the Vice Chairman shall act as the Chairman and have all the powers of the Chairman.

V. GENERAL PROCEEDINGS:

- A. The Commission shall adopt rules, regulations and bylaws to govern its proceeding: these rules shall be consistent with Texas Local Government Code, Title 7, Chapter 211. These rules, regulations and bylaws will be in writing and approved by the City's legal counsel prior to formal adoption by the Commission.
- B. Meetings will be held a call of the Chairman, Vice-Chairman or three members of the Commission.
- C. A majority of (3) three members constitutes a quorum.
- D. All Commission members, including the presiding Chairperson shall be entitled to one vote on any question, a quorum being present.
- E. All regular and special meetings are open to the public.
- F. Compliance with the Open Meetings Law will be adhered to as provided in Section 211.0075 of Title 7 of the Local Government Code.

VI. CONFLICT OF INTEREST:

No member of the Commission shall vote or participate in any proceeding before the Commission, which involves any matter or property in which he or she has a personal or pecuniary interest. In the event any such possible conflict should ensue, the affected member shall disclose the facts surrounding the potential conflict and remove himself or herself from any participation in the Commissions consideration of the matter.

City of Marfa-Amended

Adopted July 14, 2005

ARTICLE 8

BOARD OF ADJUSTMENT

I. Purpose and Creation:

The Board of Adjustment is hereby created within the City of Mara, Texas, hereafter referred to as the "BOARD". The Boards purpose is to make special exceptions to the terms of this ordinance that are consistent with the laws of the State of Texas and those responsibilities so delegated to it by the City Council.

II. Powers and Duties:

The Board shall exercise the powers and duties as prescribed by Local Government Code, Title 7, Chapter 211.

- A. The Board will hear and decide an appeal that alleges errors in an order, requirement, decision, or determination made by an administrative official in the enforcement of Texas Local Government Code, Title 7, Chapter 11 or of this ordinance.
- B. The Board will hear and decide special exceptions to the terms of this zoning ordinance when the ordinance required the Board to do so.
- C. The Board will authorize in specific cases a variance from the terms of this zoning ordinance if the variance is not contrary to the public interest and due to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, and so that the spirit of this ordinance is observed and substantial justice is done.
- D. The Board, in exercising its authority under subsection A above, may reverse or affirm, in whole or in part, or modify the administrative

official's order, requirement, decision or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Board has the same authority as the administrative official.

- E. All matters to be heard by the Board shall be heard by at least seven-five (75%) of the members.
- F. The concurring vote of seventy-five (75%) or (4) members is necessary to:
 - (1) Reverse an order, requirement, decision or determination of an administrative official;
 - (2) Decide in favor of an applicant or a matter on which the Board is required to pass under a zoning ordinance;
 - (3) Authorize a variation from the terms of the City's zoning ordinance.

III. Membership and Requirements:

- A. The Board shall be composed of Five (5) members, each of whom is a resident citizen, taxpayer and qualified voter in the City of Marfa. And its members shall not be considered to be officers or employees of the City of Marfa.
- B. The members of the Board shall be appointed by the City Council to serve terms of two (2) years or until a successor is appointed. Terms will be staggered. Members of the board may be appointed to succeed themselves.
- C. The term of each member shall terminate on (month___day___) of the year in which the term expires or when his/her successor has been qualified for office.
- D. Vacancies shall be filled for the unexpired term in the same manner as provided for original appointments.
- E. Members of the Board may be removed from office at any time for any reason by a simple majority vote of the City Council, after the member has been afforded the opportunity of a public hearing.
- F. Failure for a member to attend three (3) consecutive scheduled meetings shall be deemed cause for removal from office, unless such absences were due to unusual circumstances such as illness of the

member or someone within the members immediate family. Excuses will be granted or denied by the City Council.

G. Members of the Board shall serve without compensation.

IV. Organization:

The Board shall hold its organizational meeting no less than thirty (30) days from the beginning of the new terms of office each year (Ref. III© above). At this meeting the membership of the board shall elect a chairperson, Vice Chairperson and Secretary. Each officer shall serve a term of one (1) year.

A. In the absence of the Chairman, the Vice Chairman shall act as Chairman and shall have all powers of the Chairman.

B. The City Council shall also appoint three (3) alternate members who shall be eligible to serve in the absence of one or more of the regular members when requested to do so by the Chairman of the Board or the vice Chairman acting in the absence of the Chairman. The alternate members shall meet the same eligibility requirements as regular members.

C. A quorum shall consist of a least four (4) members.

V. General Proceedings:

A. The Board shall adopt rules, regulations and bylaws to govern its proceedings. These rules shall be consistent with Texas Local Government Code, Title 7, Chapter 211. These rules and regulations and bylaws will be in writing and approved by the City's legal counsel prior to formal adoption by the Board.

B. Meetings will be held at the call of the Chairman or Vice Chairman.

C. All members of the Board, including the presiding chairperson, shall be entitled to one vote or any question, a quorum being present.

D. All regular and special meetings are open to the public.

E. Compliance with the Open Meetings Law will be adhered to as provided in Section 211.0075 of Title 7 of the Local Government Code.

F. The presiding officer of any meeting of the board may administer oaths and shall be in charge of all proceedings before the Board.

G. The presiding officer shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the Board.

H. Minutes of its proceedings shall be kept, showing the vote of each member upon each question, or if absent or failing to vote, recording such fact. Records shall also be kept of its examination and other official actions, all of which shall be filed in the office of the City Administrator and shall be open to the public.

I. The Board shall fix a reasonable time for the hearing of appeals. Notice of appeals and requests for variances or special exceptions or for determination of nonconforming uses or elimination thereof, shall be given by mail to such persons in interest and by mail to such persons in interest and by publishing a notice of a hearing before the Board in The Ben Sentinel at least ten (10) days prior to the date set for the hearing.

VI. Appeals:

In accordance with the Texas Local Government Code, any person or persons jointly or severally aggrieved by any decision of the Board may appeal the decision of the Board to a court of competent jurisdiction as prescribed by the Texas Local Government Code.

VII. Conflict of Interest:

No member of the Board shall vote or participate in any proceeding before the Board, which involves any matter or property in which he or she has a personal or pecuniary interest. In the event any such possible conflict should ensue, the affected member shall disclose the facts surrounding the potential conflict and remove himself or herself from any participation in the Board's consideration of the matter.

City of Marfa- Amended

Adopted July 14, 2005

Rules and By-Laws of the Board of Adjustment of the City of Marfa

ARTICLE I

Name

This Board shall be known officially as the Board of Adjustment of the City of Marfa, hereafter referred to in these rules and by-laws as "the Board".

ARTICLE II

Function

The Board is appointed by the City Council of the City of Marfa, Texas, to make special exceptions to the terms of the Planning and Zoning Ordinance 02-04 that are consistent with the laws of the State of Texas and to carry out those responsibilities so delegated to it by the City Council.

ARTICLE III

Purpose

The Board shall exercise the powers and duties as prescribed by the Texas Local Government Code, Title 7, Chapter 211.

1. The Board will hear and decide an appeal that alleges errors in an order, requirement, decision, or determination made by an administrative official in the enforcement of the Texas Local Government Code, Title 7, Chapter 11 or of the Planning and Zoning Ordinance 02-04.
2. The Board will hear and decide special exceptions to the terms of the Planning and Zoning Ordinance 02-04 when the ordinance requires the Board to do so.
3. The Board will authorize in specific cases a variance from the terms of the Planning and Zoning Ordinance 02-04 if the variance is not contrary to the public interest and if due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.
4. The Board, in exercising its authority under subsection 1 above, may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, and for that purpose the Board has the same authority as the administrative official.
5. All matters to be heard by the Board shall be heard by at least seventy-five percent (75%) or four (4) of the members.
6. The concurring vote of seventy-five percent (75%) or four (4) members is necessary to:
 - (a) Reverse an order, requirement, determination of an administrative official:
 - (b) Decide in favor of an applicant or a matter on which the Board is required to pass under a zoning ordinance;

- (c) Authorize a variation from the terms of the City's zoning ordinance.

ARTICLE IV Membership

1. The Board shall be composed of five (5) members, each of whom is a resident citizen, taxpayer and qualified voter in the City of Marfa.
2. The members of the Board shall be appointed by the City Council to serve terms of two (2) years or until a successor is appointed. Terms will be staggered. Members of the Board may be appointed to succeed themselves.
3. The term of each member shall terminate on the day/month of the year in which the term expires or when his/her successor has been appointed.
4. Vacancies shall be filled for the unexpired term in the same manner as provided for original appointments.
5. Members of the Board may be removed from office at any time by a simple majority vote of the City Council, after the member has been afforded the opportunity of a public hearing.
6. Failure for a member to attend three (3) consecutive scheduled meetings shall be deemed cause for removal from office, unless such absences were due to illness of the member or the illness or death of someone within the member's immediate family. Excuses will be granted or denied by the City Council
7. Members of the Board shall serve without compensation.
8. The City Council shall also appoint three (3) alternate members who shall be eligible to serve in the absence of one or more of the regular members when requested to do so by the Chairperson or the Vice-Chairperson acting in the absence of the Chairperson. The alternate members shall meet the same eligibility requirements as regular members. Alternates will be appointed to fill the place of an absent member alphabetically, using the alternates' last name, in round-robin fashion.

ARTICLE V Meetings

A regular meeting of the Board shall be held each second Monday of the month at a time and place designated by the Board and shall be uniform, so far as possible. Special meetings, to deal with particular problems, may also be called by the Chairperson or Vice-Chairperson of the Board. Regular and special meetings will comply with the Texas Open Meetings law (Chapter 551, Texas Government Code Annotated) using the Texas Open Meetings Handbook, and be conducted in accordance with Robert's Rules of Order, Revised. The term meeting will not include the gathering of a quorum of the Board at a social function, or at a convention, or working at a city function, if formal action is not taken and any discussion of public business is incidental to the social function, convention, or working function.

ARTICLE VI Organization

The Board shall hold its organizational meeting no less than thirty (30) days from the beginning of the new terms of office each year (Ref, IV 3 above). At this meeting the membership of the Board shall elect a Chairperson, Vice-Chairperson and Secretary. Each officer shall serve a term of one (1) year.

ARTICLE VII
Officers

Officers of the Board shall be as follows:

Chairperson

The Board shall elect a Chairperson from among the members of the Board. The Chairperson shall preside over all meetings and post agendas. All agendas and correspondence shall be conducted in the name of the Chairperson, and the Chairperson shall perform such other duties as normally pertain to his/her office. Additionally, the Chairperson shall be responsible for directing the city administrator to notify adjacent property owners as required by the provisions in the Planning and Zoning Ordinance for situations relative to zoning issues.

Vice-Chairperson

The Board shall elect a Vice-Chairperson from among the members of the Board. In the absence of the Chairperson, the Vice-Chairperson shall act as Chairperson and have all powers of the Chairperson.

Secretary

The Board shall elect a Secretary. The Secretary shall be responsible for keeping minutes of meetings and taking roll of members present, as well as guests, at each meeting. The Secretary shall see that the minutes of each proceeding are filed in the office of the City Administrator.

ARTICLE VIII
Quorum

A quorum shall consist of four (4) members of the Board.

ARTICLE IX
General Proceedings

1. The Board shall adopt rules, regulations and by-laws to govern its proceedings. These rules shall be consistent with Texas Local Government Code, Title 7, Chapter 211. These rules, regulations and by-laws will be in writing and approved by the City's legal counsel prior to formal adoption by the Board.

2. Meetings other than regular meetings will be held at the call of the Chairperson or the Vice-Chairperson. The Chairperson may cancel a regular or special meeting by posting notice of the cancellation in the same location that the notice of the meeting was posted.
3. All members of the Board, including the presiding Chairperson, shall be entitled to one vote on any question, a quorum being present.
4. All regular and special meetings are open to the public.
5. Compliance with the Texas Open Meetings Act will be adhered to as provided in Title 7, Section 211.0075 of the Texas Local Government Code.
6. The presiding officer of any meeting of the Board may administer oaths and shall be in charge of all proceedings before the Board.
7. Minutes of its proceedings shall be kept, showing the vote of each member upon each question, or if absent, failing to vote, recording such fact. Records shall also be kept of its examinations and other official actions, all of which shall be filed in the office of the City Administrator and shall be open to the public.
8. The Board shall fix a reasonable time for the hearing of appeals. Notice of appeals and requests for variances or special exceptions or for determination of nonconforming uses or elimination thereof, shall be given by mail to such persons in interest and by publishing a notice of a hearing before the Board in the *Big Bend Sentinel* at least 10 (ten) days prior to the date set for the hearing.

ARTICLE X Appeals

In accordance with the Texas Local Government Code, any person or persons jointly or severally aggrieved by any decision of the Board may appeal the decision of the Board to a court of competent jurisdiction as prescribed by the Texas Local Government Code.

ARTICLE XI Conflict of Interest

No member of the Board shall vote or participate in any proceeding before the Board that involves any matter or property in which he or she has a personal or pecuniary interest. In the event any such possible conflict should ensue, the affected member shall disclose the facts surrounding the potential conflict and remove himself or herself from any participation in the Board's consideration of the matter.

ARTICLE XII Amendment

These by-laws may be amended from time to time by the Board, provided that all amendments shall be by an affirmative vote of at least four (4) Board members. The City Council must approve changes to the Rules and By-laws.

Appendix

ARTICLE 9

UNPLATTED PROPERTY

SECTION 1. The City Planning and Zoning Board shall not approve any plat of any subdivision within the City limits until the area covered by the proposed plat shall have been permanently zoned by the City Council.

SECTION 2. The City Planning and Zoning Board shall not approve any plat of any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the City is pending before the City Council.

SECTION 3. In the event the City Planning and Zoning Board holds a hearing on proposed annexation, it may, at its discretion, at the same time hold a hearing upon the permanent zoning that is to be given to the area or tract to be annexed, and make a recommendation on both matters to the City Council so that the City Council can, if it desires, act on the matter of permanent zoning and annexation at the same time.

10-1

ARTICLE 10

ENFORCEMENT

The provisions of this Ordinance, shall be administered and enforced by the City Administrator or his designee. 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 Administrator or his designee.

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11-1

ARTICLE 11

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 Five Hundred Dollars (\$500.00), 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, any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violations shall be guilty of a separate offense and upon conviction, shall be fined as herein provided.

ARTICLE 12

CHANGES AND AMENDMENTS

- SECTION 1. The governing body may from time to time amend, supplement, or change by ordinance the boundaries of the districts or the regulations herein established.
- SECTION 2. Before taking action on any proposed amendment, supplement or change, the governing body shall submit same to City Planning and Zoning Board for its recommendation and report.
- SECTION 3. Public Hearings shall be held only after notices required by the laws of the State of Texas shall have been given in the manner required by law.

13-1

ARTICLE 13

VALIDITY

If any section, paragraph, subdivision, clause, phase, 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 decided to be invalid or unconstitutional.

14-1

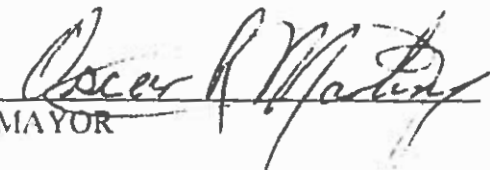
ARTICLE 14

WHEN EFFECTIVE

This ordinance shall be come effective immediately upon its passage and publication, as the law in such cases provides, and it is accordingly so ordained.

DULY PASSED BY THE CITY COUNCIL ON THE 11TH day of JUNE
2002.

APPROVED:


MAYOR

ATTESTED:


CITY ADMINISTRATOR